

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,)
)
)
-vs-) Indictment No. 1:06-CR-147-02-WSD
) Volume 1
EHSANUL ISLAM SADEQUEE,) Pages 1-295
Defendant.)

Transcript of the Jury Trial Proceedings
Before the Honorable William S. Duffey, Jr.
August 3 and 4, 2009
Atlanta, Georgia

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1 (Monday, August 3, 2009, 9:28 a.m.)

2 THE COURT: Good morning. This is the trial of the
3 United States versus Ehsanul Sadequee, which is Criminal Action
4 Number 06-CR-147.

5 Counsel, please announce your appearances.

6 MR. MCBURNEY: Robert McBurney for the United States
7 with Alexis Collins, David Nahmias, the U.S. Attorney, and
8 Christopher Bly.

9 THE COURT: Good morning. We'll start with you,
10 Mr. Samuel.

11 MR. SAMUEL: Okay. Don Samuel, Mr. Sadequee, with me
12 at counsel table is Khurrum Wahid, Tim Mansour and Amanda Clark
13 Palmer.

14 THE COURT: Good morning. And good morning,
15 Mr. Sadequee. I understand that you would like to represent
16 yourself in this proceeding; is that correct?

17 MR. SADEQUEE: Yes.

18 THE COURT: Can you pull the microscope closer to
19 you?

20 I have to ask you a number of questions before I can
21 evaluate whether to allow you to represent yourself. I don't
22 think we've gone over a number of these matters before so let
23 me get some background information.

24 Can you tell me how old you are today?

25 MR. SADEQUEE: I was born July 30th, '86, so I am 23.

1 THE COURT: Tell me what your education is.

2 MR. SADEQUEE: I studied in Georgia until -- well, in
3 middle school and then I moved to -- well, I didn't move to, I
4 attended a boarding school, an Islamic boarding school in
5 Toronto, Canada. Ajax, Canada, to be exact.

6 THE COURT: By boarding school, you mean high school,
7 basically?

8 MR. SADEQUEE: Well, it's an Islamic school. I mean,
9 they call it like a madrassa but it's not, you know, like what
10 you hear about in Pakistan, it's in Toronto, Canada. But they
11 had a high school education according to the Canadian system as
12 well and I didn't fully graduate from there.

13 So what happened is that I moved back to Bangladesh
14 for a couple of years. I did my O levels partially. You know,
15 over there they follow the British education system, the
16 levels, O levels, they didn't have high school the way we have
17 over here. And I didn't finish that, either.

18 So then when I came back to the States in '04, I did
19 my GEDs and SATs, which I, you know, got good scores on. And
20 then I went back to Bangladesh in '05, in 2005, August, and I,
21 in early 2006, I began my first semester at university, North
22 South University in Dhaka, Bangladesh, the capital, and I
23 finished one complete semester, and I was arrested the day
24 after.

25 THE COURT: Have you ever studied law?

1 MR. SADEQUEE: Not in a -- not a college of law but I
2 have studied, you know, just the way prisoners study.

3 THE COURT: Have you done a fair amount of that
4 self-study in law?

5 MR. SADEQUEE: I believe I'm prepared enough. I'm
6 not a lawyer, I understand.

7 THE COURT: And I'm pretty sure that you've never
8 represented yourself in any other criminal action, including
9 any traffic violation. Have you ever represented yourself
10 before in a matter?

11 MR. SADEQUEE: No.

12 THE COURT: During, let's focus on the last few
13 months and your relationship with your lawyers, how often have
14 you been in contact with them and how have you been in contact
15 with them? That is, what's the means? Was it personal visits,
16 was it telephone calls, was it a mixture of those things? Can
17 you answer frequency of contact and how?

18 MR. SADEQUEE: Usually it is through contact visits,
19 which they come -- recently they've been coming almost on a
20 weekly basis. But throughout the last three years of my
21 incarceration, you know, sometimes they've come once a month or
22 so. But these attorneys of mine, Mr. Wahid and Mr. Samuel,
23 they've been coming for the last several months almost on a
24 weekly basis. And then also, yes, I do phone, have contact
25 over the phone with them, also on a weekly basis, I would say.

1 THE COURT: Do you understand the charges that you
2 face?

3 MR. SADEQUEE: Yes.

4 THE COURT: Can you tell me what you understand the
5 charges to be?

6 MR. SADEQUEE: Well, the four counts are, if I may
7 summarize in my own words, basically, is conspiring or plotting
8 to help terrorists and terrorist organizations and also the
9 actual aiding of and providing help to terrorist organizations
10 or terrorists.

11 So one is plotting to do that and one is actually to
12 have done, provided -- actually having provided assistance to
13 terrorists and terrorist organizations.

14 THE COURT: So you're aware in that general
15 description that you've given me that there are actually two
16 conspiracy counts and two counts for actually doing something
17 that we call substantive counts. Are you aware of that?

18 MR. SADEQUEE: Yes.

19 THE COURT: Do you understand that if you are found
20 guilty of the crime that's charged in Count One, that I could
21 sentence you to as many as 15 years in prison, impose a term of
22 supervised release for life that follows imprisonment, and fine
23 you up to \$250,000? Do you understand that?

24 MR. SADEQUEE: Yes.

25 THE COURT: Do you understand that if you are found

1 guilty of the crime charged in Count Two, that I could sentence
2 you to as many as 15 years in prison, impose a term of
3 supervised release, also for life, following imprisonment, and
4 fine you as much as \$250,000? Do you understand that?

5 MR. SADEQUEE: (Nods head.)

6 THE COURT: Sorry?

7 MR. SADEQUEE: Yes.

8 THE COURT: Do you understand that if you are found
9 guilty of the crime charged in Count Three that I could
10 sentence you to as many as 15 years in prison, impose a term of
11 supervised release for life after imprisonment, and, again,
12 fine you as much as \$250,000? Do you understand that?

13 MR. SADEQUEE: Yes.

14 THE COURT: And on Count Four, do you understand that
15 I could sentence you to as many as 15 years in prison, impose a
16 term of supervised release for that count of life following
17 imprisonment, and fine you as much as \$250,000?

18 MR. SADEQUEE: Yes.

19 THE COURT: Do you also understand that if you are
20 found guilty of more than one of these crimes that I can order
21 the sentences that can be -- upon which you can be required to
22 serve to run consecutively, that is, that you would serve one,
23 when that's over then you would serve the next one, and if
24 there was more than that, then I could order that you then
25 begin serving the third and then begin serving the fourth?

1 Say, for example, you are convicted of all four counts, so it's
2 not just 15 years, it would be 15 times four. Do you
3 understand that?

4 MR. SADEQUEE: (Nods head.)

5 THE COURT: And do understand that -- have you ever
6 talked about the sentencing guidelines with your lawyers? Do
7 you understand generally how --

8 MR. SADEQUEE: Yeah.

9 THE COURT: -- they work?

10 MR. SADEQUEE: Yes.

11 THE COURT: And do you understand that they may
12 affect your sentence if you are found guilty of one or more of
13 these offenses? Do you understand that?

14 MR. SADEQUEE: Yes.

15 THE COURT: If you represent yourself, the way I
16 would put it is that you will be on your own, that you will
17 have to make all of the decisions that are required to be made,
18 you have to do everything that is required to be done, and that
19 those will be your decisions alone, that I'm not going to be
20 able to tell you or advise you or consult with you or help you
21 try your case; the case will be your case and it will be your
22 responsibility. Do you understand that?

23 MR. SADEQUEE: Yes. If I may ask that I'm -- that my
24 attorneys be allowed to sit with me so that I could consult
25 with them?

1 THE COURT: You represent yourself. They will sit
2 behind you and I will allow you to consult with them when we
3 are not in session.

4 MR. SADEQUEE: Okay.

5 THE COURT: Are you familiar with the Federal Rules
6 of Evidence?

7 MR. SADEQUEE: I've gone through them, yes.

8 THE COURT: Do you understand that it's those Rules
9 of Evidence that will govern what may or may not be introduced
10 in the case?

11 MR. SADEQUEE: Yes.

12 THE COURT: And that in representing yourself, you
13 will be required to comply with these rules and to abide by my
14 rulings on those rules, which are fairly complicated? Do you
15 understand that that's going to be your responsibility?

16 MR. SADEQUEE: Yes.

17 THE COURT: Do you understand that if I rule on a
18 piece of evidence that you must follow my ruling? Do you
19 understand that?

20 MR. SADEQUEE: Yes.

21 THE COURT: Are you familiar with the Federal Rules
22 of Civil Procedure? Which are different from the Federal Rules
23 of Evidence, civil procedure talks about the procedures during
24 the course of a trial and it's in a different volume of rules.

25 MR. SADEQUEE: I have not gone through this civil

1 procedures. I was told that the Rules of Evidence is what I'm
2 required to know for trial.

3 MR. MCBURNEY: Judge, I'm sorry, you asked him twice
4 about Rules of Civil Procedure, that may have thrown him for a
5 loop.

6 THE COURT: Maybe not. Have you ever heard of the
7 Rules of Criminal Procedure?

8 MR. SADEQUEE: Yes.

9 THE COURT: Okay, I'm sorry, I misspoke. Have you
10 had a chance to review the Rules of Criminal Procedure?

11 MR. SADEQUEE: That I have not gone through, no.

12 THE COURT: Well, those are rules that apply to the
13 processing of a criminal case and they have -- certain parts of
14 those rules apply to criminal trials. You are going to be
15 responsible for knowing those rules and following those rules
16 and doing whatever the rules require or what they allow, will
17 be totally up to you. Do you understand that?

18 MR. SADEQUEE: Yes.

19 THE COURT: That that's another one of your
20 responsibilities, even though those rules are complex, you are
21 going to have to be deemed to be responsible and to know them.
22 Do you understand that?

23 MR. SADEQUEE: Yes.

24 THE COURT: I think I have told you this before, in
25 fact, I'm sure I have. I've been doing this, that is being a

1 lawyer, since 1977, and despite my experience in a wide variety
2 of matters and a wide variety of courts and lots of experience
3 in federal court, these rules are very difficult. The trying
4 of a case is very hard. It's a dynamic process that requires
5 skill and training and judgment.

6 And as I've told you before, and I will tell you
7 again, that in my very strong opinion somebody who is trained
8 in the law, specifically the lawyers that have been appointed
9 to represent you, could do a much better job, and I think an
10 excellent job, of representing you in this matter, and that
11 they would do a much better job than you can do.

12 I think is it is a very, very unwise choice for you
13 to make to represent yourself. While you have some familiarity
14 with the law and some familiarity with the rules, and maybe
15 better than some, maybe even pretty good familiarity with the
16 Rules of Evidence, you have to know all of those things and you
17 have to have the experience necessary to represent yourself.
18 And I think your lawyers are much more prepared and capable and
19 competent to represent you and I strongly urge you not to
20 represent yourself.

21 Have you discussed your decision to represent
22 yourself with your lawyers?

23 MR. SADEQUEE: Yes.

24 THE COURT: Having explained to you the penalties
25 that can be imposed upon you if you are found guilty, and after

1 our discussion about all the difficulties in representing
2 yourself in this case, is it still your desire to represent
3 yourself and to give up your constitutional right to be
4 represented by a lawyer?

5 MR. SADEQUEE: Yes.

6 THE COURT: Has this been entirely your decision to
7 represent yourself?

8 MR. SADEQUEE: Yes.

9 THE COURT: All right. I find that Mr. Sadequee has
10 knowingly and voluntarily waived the right to counsel; I
11 therefore will permit him to represent himself in this matter.

12 I appoint Mr. Samuel and Mr. Wahid as standby counsel
13 in the event that Mr. Sadequee chooses to change his mind and
14 to, at some time in the trial, to be represented by counsel,
15 that they would be available and would take over representation
16 at that point.

17 They are, and you shall, Mr. Samuel and Mr. Wahid,
18 stay in the courtroom and stay there in the back so you will
19 keep abreast of what's going on in the course of the trial.

20 I don't have any objection, even though I have
21 allowed Mr. Sadequee to represent himself, that at times when
22 we are not in proceedings here in the courtroom that if he
23 wants to ask you some questions and you want to consult with
24 him, I will allow him to do that. All right, that concludes
25 that matter.

1 I have, as I told you, I was going to draft a
2 limiting instruction for the Rule 404(b) instruction as it
3 would relate to the December 2001 e-mail. I'm going to give
4 you a copy of that so that you will understand what instruction
5 that will be. I don't think that's going to come up today, so
6 if you have any comments on it I would appreciate you just
7 making pen and ink changes, unless they're more extensive than
8 that, we might be able to take it up at a break or in the
9 morning but that's just to give you some advance notice of
10 that.

11 MR. BLY: Judge, to give you notice of when that is
12 going to be coming in, it will be Agent Williamson, who is
13 fourth on the government's list. It will be one of the first
14 exhibits that we deal with with Agent Williamson.

15 THE COURT: Then I think that we are ready to do the
16 follow-up voir dire unless there's something else I need to
17 take up before.

18 MR. MCBURNEY: Two quick points, one related to the
19 voir dire, which I will say second.

20 But, first, at some point before we begin with
21 opening statements, the government is asking that the Court
22 review with the defendant -- it may be his counsel can do it --
23 the Court's rulings on the three motions in limine filed by the
24 government so that we don't have an issue of the defendant
25 inadvertently wading into those areas that the Court ruled on.

1 I don't know if you want to do that on the record or direct me
2 to get with Mr. Samuel so he can talk to his client about it,
3 but it was the lawyer's -- defendant was here but it was the
4 lawyers who litigated and you ruled upon.

5 THE COURT: Well, it's a different issue as between
6 what the lawyers know and their involvement in the pretrial
7 matters of Mr. Sadequee.

8 MR. MCBURNEY: I agree.

9 THE COURT: Mr. Samuel, have you had a chance to
10 review the orders that I entered with Mr. Sadequee, and does he
11 understand what restrictions I have imposed upon the trial of
12 the case?

13 MR. SAMUEL: Your Honor, he was present in court,
14 heard your ruling, and I have shared with him your order. I
15 have a copy with me, which -- if I may, I know I'm not going to
16 be saying a lot here but I need to know a little bit of your
17 protocol.

18 We have, you can't see, a lot of it is in the back,
19 there's a lot of exhibits, a lot of documents, a lot of paper.
20 How would I get that to Mr. Sadequee during the course of a
21 witness? Do I hand him pieces of paper? If an exhibit is
22 being shown to the jury, may I bring the notebook up to him to
23 show him the exhibit? He doesn't have a computer. We've got
24 it hard copy and on disks.

25 I've been in situations like this where a judge

1 allowed me to sit at counsel table and just give him paper if
2 it becomes -- it's a very paper-intensive case. I've had other
3 judges who say, "I don't want you anywhere near the defendant
4 while the jury is in the room."

5 But he's not going to see exhibits if I can't sit
6 with him and open up the notebook to the right page. I don't
7 think the marshals are going to be crazy about him getting up
8 and walking to the back bench to grab exhibit notebooks.

9 I would ask you to reconsider allowing one of us or
10 both of us to sit at counsel table, not to talk, the mike won't
11 be on us, but simply to facilitate the paper, the exhibits.
12 Even a rule of evidence, if we can just show him, open the book
13 to the right page if it comes up.

14 We won't interfere with his right. This is not a
15 *McKaskle* issue where the defendant doesn't want us present. As
16 he said, he wants us to be there. You've got my word we will
17 not interfere with his right to represent himself or engage in
18 anything that will make the jury to think whatever it is that
19 concerns the Court.

20 I hope the government wouldn't object to our being
21 present. We will do it in the most unobtrusive way.

22 THE COURT: Well, you are present. There's six
23 inches between your table and Mr. Sadequee's table.

24 MR. SAMUEL: Yes, I meant the counsel table. Again,
25 with notebooks full of exhibits. And even his motion in

1 limine, for example, that's why I bring it up to you because,
2 really, I want to know your protocol during the trial, I have
3 the motion in limine ruling, I have it in the back of the room,
4 I'll have to grab it. I have the pleading book with me.

5 I would urge you to consider allowing us to be there,
6 and "be there" meaning at counsel table with him, sitting to
7 the side.

8 THE COURT: If all you want to do is sit to the side
9 of counsel table and help him administratively by providing
10 exhibits, which, in my mind, is if he's representing himself it
11 doesn't mean that you hand him a folder, saying these are all
12 the exhibits on which you should cross-examine a witness; it's
13 simply that if he says "I need the exhibit having to do with
14 X," that you would help him get that.

15 MR. SAMUEL: If Mr. McBurney says, you know, "Now I'm
16 going to tender 238," I've got to grab 238, show it to him.
17 Otherwise, Mr. McBurney is going to be very unhappy, having to
18 bring it over to him, each document. You're not going to be
19 happy with that, either.

20 THE COURT: Mr. McBurney, what's your view on that?

21 MR. MCBURNEY: That we're going to ask the same
22 thing, maybe not right now but after some time had passed. If
23 it's purely clerical, if you will, and it doesn't slow things
24 down, it's not "I need a conference with my lawyer again," we
25 have no objection; I think it will cause things to move faster.

1 THE COURT: So if that is what you're asking, Mr.
2 Samuel, I will allow that administrative help.

3 MR. SAMUEL: And we don't need that even during --
4 even this morning because I've put the first 25 questionnaires
5 here in front of him, he's got my list of proposed questions
6 that I submitted to the Court last night, he's got Mr.
7 McBurney's list of proposed questions. So we don't have to do
8 it right now but maybe over the lunch break we can start doing
9 that. Thank you.

10 MR. MCBURNEY: One other thing, Judge, considering
11 voir dire, there have been, since Wednesday when the potential
12 jurors filled out the questionnaire, a few articles. This
13 morning there was one in the *AJC* on the front page of the Metro
14 section. So the government would ask, when we get a group of
15 12 here, you ask them, besides do you recognize anyone, have
16 any of you had any exposure to the media that has added to your
17 knowledge about the case.

18 It doesn't seem to be a big issue based on our review
19 of the questionnaires. As of Wednesday, there was one, maybe
20 two jurors who even knew anything about the case or had heard
21 of the previous trial. That may have changed between Wednesday
22 and now, and rather than us bringing in each person to find
23 out, we have an opportunity when there's a group of 12 for you
24 to ask a generic question.

25 THE COURT: They know more about this case from

1 reading the description on the front of the questionnaire than
2 they do from any press report that I've reviewed.

3 MR. MCBURNEY: Okay.

4 THE COURT: All right, are we ready to bring in the
5 first 12 prospective jurors? Let's bring them in, please.

6 (Jury selection and striking of the jury ensued;
7 following proceedings outside the presence of the jury at 4:25
8 p.m.)

9 THE COURT: The jury has retired and have gone home
10 for the evening.

11 Let me go over some matters to make it clear how I
12 intend for this trial to be conducted.

13 First, I have told all of the people who have
14 appeared here today, including all of these jurors, that Mr.
15 Sadequee is representing himself.

16 Is there anything else that the government believes,
17 or Mr. Sadequee believes, I should say to them about your self-
18 representation tomorrow when I give them my preliminary
19 instructions?

20 MR. MCBURNEY: I believe in at least the final charge
21 you will instruct them that questions by Mr. Sadequee when he's
22 questioning witnesses, his opening statement, if he gives one,
23 his closing argument, if he gives one, is not evidence. I'm
24 going to make that point in the opening. So if you think it's
25 appropriate to be the first person to say that, we'd ask that

1 you include that, that this is -- not to say that it's
2 different but there will be self-references in his questions
3 and in his opening that wouldn't occur otherwise, and it might
4 help the jurors to understand that when he's acting as
5 advocate, meaning his own attorney, that's not evidence, just
6 like it's not when I say something or argue something.

7 THE COURT: I always in my preliminary instructions
8 tell them that nothing that is said in the openings constitutes
9 evidence in the case. The question is -- and I think it might
10 be too much at this point to go further than that, about
11 questions and information that may be embedded in questions.
12 So it seems, at least at this point, to make sense just to make
13 it clear that in the openings that it is not evidence, that the
14 only evidence is that which is presented during the course of
15 the trial after the introduction of evidence begins.

16 Is that satisfactory to the government?

17 MR. MCBURNEY: Yes, as long as that's not a
18 prohibition on my opening of explaining what I just said. Not
19 the Court saying it, but I intend to make clear that I believe
20 the instructions from the Court at the end of the trial will be
21 questions from Mr. Sadequee don't constitute evidence,
22 et cetera.

23 THE COURT: I think that makes sense and if that's
24 not -- I mean, they will know that they have to listen to my
25 instructions.

1 Do you have any objection to him making that
2 statement, Mr. Sadequee?

3 MR. SADEQUEE: No, no objection.

4 THE COURT: No? Okay. Can you pull the microphone
5 up a little closer so I can catch your voice a little better?

6 MR. SADEQUEE: No objection.

7 THE COURT: Thank you. Openings, didn't I say 30
8 minutes a side?

9 MR. MCBURNEY: I believe so. It may have been a
10 little longer but I think it was 30 minutes.

11 THE COURT: Jessica says it was 30 minutes, so that
12 was a nice try trying to get a few extra minutes. It will be
13 30 minutes.

14 Mr. McBurney, your clock will be on the left.
15 Mr. Sadequee, your clock will be on the right. When you begin
16 speaking it will begin there, it begins running.

17 Why don't you turn one on so we can all see how it
18 works? So you will see that it begins counting down and when
19 it gets to 30 you need to be done with your opening.

20 An opening is a forecasting to the jury of the
21 evidence in the case. It will not be anything else. You may
22 state your -- those matters which may be stated in an opening,
23 but it may not be an exposition or a statement about one's
24 faith, one's belief in their country. It is about the evidence
25 in the case. Do you understand that, Mr. Sadequee?

1 MR. SADEQUEE: Yes.

2 THE COURT: I will say this to the audience, since
3 I've had an experience before, that at the end of any
4 presentation that there will be no audible outbursts, no
5 showing of any gestures or the like. You are here as citizens
6 of the country that have the privilege of watching a criminal
7 trial. And if there are any audible outbursts, as I
8 experienced in the last trial, I will remove you. So that's
9 for the benefit of those that have the privilege of observing
10 the trial.

11 MR. SADEQUEE: I have one question. As Muslims,
12 before we begin any speaking we usually begin by praising God
13 and sending prayers on the Prophet Muhammad, like an
14 introduction, and then we begin whatever it is that we speak
15 about. That's a general, well-known principle.

16 THE COURT: Well, you've never done that today.

17 MR. SADEQUEE: Well, because it's not a speech I'm
18 giving. It's just a sentence or two I'm saying at a time. But
19 before we write any letter, for example, we start in the name
20 of Allah, most gracious and most merciful, peace and blessings
21 on the Prophet, and then, you know, it's pretty well known
22 amongst Muslims.

23 So I mean, there's no objection to that? It's not
24 going to be like a whole lecture on Islam but it's just -- it
25 begins with a prayer, basically, and then I go on to the topic

1 of what I am -- you know, the case.

2 THE COURT: Mr. McBurney?

3 MR. MCBURNEY: If it is limited to, I'm not calling
4 it equivalent, but "it may please the Court," et cetera, before
5 one gets into the content of the opening -- there's a religious
6 angle to this -- I don't object if it is brief.

7 THE COURT: Why don't you represent to me right now
8 what you intend to say at your beginning?

9 MR. SADEQUEE: I would start with, for example, the
10 first chapter of --

11 THE COURT: I don't want a for example. I want you
12 to tell me exactly what you intend to say tomorrow.

13 MR. SADEQUEE: The prayer would be the first chapter
14 of the Quran, basically, which is like five verses -- no, seven
15 verses and the phrase, "Peace and blessings be upon the Prophet
16 Muhammad and on his descendents and on his family." Is there
17 any objection?

18 THE COURT: Well, this is a criminal trial; it's not
19 a place to pray. Do you contend that your religion requires
20 you and that it would be an abridgement of your First Amendment
21 rights not to be able to recite the first seven verses of the
22 Quran before you made your opening statement in a court of law?

23 MR. SADEQUEE: Well, Islam, our Prophet he said that
24 any speech that does not begin by praising God and sending
25 blessings on the Prophet --

1 THE COURT: You may say that.

2 MR. SADEQUEE: No, no, he said that, it's an
3 unblest speech.

4 THE COURT: You can say those two statements that you
5 just made because those are short. So if you want to say what
6 you just said, which is similar to what Mr. Ahmed said in his
7 closing, he did not recite the first seven verses of the Quran
8 as a prayer. So if you want to say, basically ask for the
9 blessings of the Prophet Muhammad and what you say, and you can
10 do that in two or three lines, I will allow that.

11 MR. SADEQUEE: It will not be more than one minute,
12 talking about 60 seconds, just very brief and I will go on to
13 my opening statement.

14 THE COURT: Well, I need for you to tell me the two
15 or three lines that you are going to say and I need for you to
16 tell me that now.

17 MR. SADEQUEE: Well, I haven't formulated it yet but
18 it would be basically, "In the name of Allah, God, the most
19 gracious, the most merciful, all praise belongs to God, the
20 ruler of the world, the most gracious, the most merciful, the
21 king of the day of judgment, it is he alone whom we worship and
22 he alone whom we seek help from."

23 THE COURT: That's too long. If you want to say
24 something short, you may do that. But I've been here before.
25 It's going to be clear what you -- how you begin this because

1 this is a court of law; it's not a place for somebody to
2 espouse their religious beliefs. So if you want to have a two
3 or three-line introduction think about that tonight, but you
4 will represent to me tomorrow before the jury comes in what it
5 is you intend to say. Is that understood?

6 MR. SADEQUEE: Yes.

7 THE COURT: Second, everybody giving their statements
8 will stand behind the podium. You will not stand in front of
9 the podium at any time. All of the openings will be made from
10 the podium.

11 Do you understand that, Mr. McBurney?

12 MR. MCBURNEY: I do, with one question. If I stand
13 here so I'm facing the jury, it's not behind to Your Honor but
14 it's behind the jury, is that sufficient, or do you mean behind
15 when I'm addressing the Court?

16 THE COURT: You see the left-hand side of the podium?

17 MR. MCBURNEY: My right-hand side, yes.

18 THE COURT: Where your right hand is right now.

19 MR. MCBURNEY: Yes.

20 THE COURT: You cannot go in front of that.

21 MR. MCBURNEY: Understood.

22 THE COURT: Do you understand that, Mr. Sadequee?

23 MR. SADEQUEE: You're saying I cannot pass beyond
24 that?

25 THE COURT: Yes. All questioning of witnesses will

1 be from the podium.

2 Do you understand that, Mr. McBurney?

3 MR. MCBURNEY: Yes, sir.

4 THE COURT: Do you understand that, Mr. Sadequee?

5 MR. SADEQUEE: (Nods head.)

6 THE COURT: Whoever the court security officer is
7 that is stationed in this seat next to the jury, if you want to
8 show a witness a document, you indicate that to the court
9 security officer and he will have the additional duty tomorrow
10 of making sure that exhibits that you want to show to a witness
11 are delivered to the witness, that they will not be delivered
12 by counsel or Mr. Sadequee. Do you understand that?

13 MR. MCBURNEY: I do, and the court security's officer
14 last name?

15 THE COURT: It depends who they assign here but
16 you'll know that in the morning.

17 MR. MCBURNEY: Okay.

18 THE COURT: Do you understand that, Mr. Sadequee?

19 MR. SADEQUEE: Yes.

20 THE COURT: If there are any objections, and
21 specifically ones that have to be taken up with me privately,
22 we will excuse the jury to the jury room and I will take them
23 up in open court outside their presence, unless it's a matter
24 that involves classified material and then I'll decide how to
25 deal with that. I'm not quite sure how to do that at this

1 point. I think it's unlikely that that's going to come up and
2 I would ask the government to make those objections only if
3 they are certain that that's a problem because it might require
4 me to clear the courtroom.

5 MR. MCBURNEY: Understood. We may need to talk with
6 you, perhaps with standby counsels, as to how we can make that
7 objection without making it clear to everyone else that that's
8 the basis for the objection. I have some thoughts on that but
9 I also understand your caution and we'd be certain that we're
10 heading in that direction.

11 THE COURT: And I gave you a proposed 404(b) limiting
12 instruction. Is there any objection to the instruction?

13 MR. MCBURNEY: No objection.

14 THE COURT: Mr. Sadequee, any objection?

15 MR. SADEQUEE: No.

16 THE COURT: All right, then that's the instruction
17 that I will give following the introduction and admission of
18 the December 2001 e-mail.

19 Those are the housekeeping matters and procedures
20 that I wanted to address. Is there anything else that the
21 government would like us to take up at this time?

22 MR. MCBURNEY: No, sir.

23 THE COURT: Mr. Sadequee, anything else from you?

24 MR. SADEQUEE: No.

25 THE COURT: All right, we will be in recess. We will

1 begin promptly at 9:00. Actually, we're going to begin at
2 8:55, and the marshal service, will you make sure that he is
3 over here so that I can listen to what he proposes to say in
4 his opening?

5 I would ask you, Mr. Sadequee, and admonish you that
6 I am going to hold you to the rules of the court and that would
7 include what an appropriate opening statement is.

8 The other thing I would say is if I tell you that you
9 may not do something, you will stop. Do you understand that?

10 MR. SADEQUEE: Yes.

11 THE COURT: And do you also understand that if there
12 is an objection and once I rule on it, that you must follow my
13 ruling? Do you understand that?

14 MR. SADEQUEE: Yes.

15 THE COURT: All right, we will be in recess until
16 8:55 tomorrow morning.

17 (Proceedings adjourned at 4:40 p.m.)

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1 (Tuesday, August 4, 2009, 8:55 a.m.; jury not
2 present.)

3 THE COURT: All right, good morning, everybody.

4 Mr. Sadequee, did you have a chance to think about
5 how you want to begin this morning?

6 MR. SADEQUEE: Good morning. I believe you just
7 wanted to know the introduction phrases that I wanted to use,
8 and so I was -- basically three lines that I wanted to say: In
9 the name of God, the Lord of grace, most merciful, all praise
10 belongs to God, the Lord of all the worlds and peace and
11 blessings be on the last Messenger Muhammad.

12 THE COURT: I think that that's fine.

13 Is there anything else we need to discuss before we
14 bring the jurors in?

15 MR. MCBURNEY: Not at this time, Judge.

16 THE COURT: Anything else that you would like to
17 discuss, Mr. Sadequee?

18 MR. SADEQUEE: No.

19 THE COURT: All right, let's bring the jurors in.

20 (Jury returned to the courtroom.)

21 THE COURT: All right, good morning, ladies and
22 gentlemen. I hope you had a good evening. I told you that we
23 would begin this morning with the trial of the case, and we are
24 about to do that.

25 You recall yesterday when you came in to be

1 introduced to the participants you were given an oath. We now
2 have a different oath to administer to you because you now
3 begin a different function as the jurors in the case.

4 So if each of you would please raise your right hand,
5 let me swear you in as jurors.

6 Will you well and truly try the issues in the matter
7 entitled the United States versus Ehsanul Islam Sadequee, which
8 is Criminal Action Number 06-CR-147, and render a true verdict
9 according to the law and the evidence, so help you God?

10 If you will, say "I will."

11 THE JURORS: I will.

12 THE COURT: You have now been sworn to try this case
13 and by your verdict you will decide the disputed issues of
14 fact. I will decide all questions of law and procedure that
15 arise during the trial.

16 Before you retire to the jury room at the end of the
17 trial to deliberate upon your verdict and to decide the case, I
18 will instruct you, which is a different way of saying that I
19 will explain to you, the rules of law that you must follow and
20 that you must apply in reaching your verdict.

21 Nothing that I say or do during the trial is intended
22 to indicate or should be interpreted by you as an indication of
23 how I feel about the case or what your verdict should be. That
24 is solely within your providence.

25 As I told you before, the defendant has elected to

1 represent himself in this action, and the law allows him to
2 represent himself in this proceeding.

3 The evidence presented to you during the trial will
4 primarily consist of the testimony of witnesses and tangible
5 things and items that comes in a variety of forms, which
6 includes papers and documents and sometimes physical things,
7 and we will refer to those as exhibits.

8 And sometimes there are stipulated facts which may be
9 agreed on by the parties. I don't know if there will be any of
10 those, but those are facts that you can accept as true if, in
11 fact, they are introduced.

12 That's a broad description of the evidence. I want
13 to tell you, though, what is not evidence because, as I told
14 you yesterday from time to time, the only facts that you may
15 consider and the only evidence you can consider is that which I
16 allow to be admitted in this case. So I thought it would be
17 helpful to tell you what isn't evidence.

18 The following are not evidence: The statements, the
19 questions, and the arguments of counsel or of the defendant are
20 not evidence.

21 Objections to questions are not evidence. When a
22 lawyer makes an objection, it is because they have an
23 obligation to their client to make objections when they believe
24 evidence being offered is improper under the Rules of Evidence,
25 and the defendant has the same right.

1 You should not be influenced by the objection or by
2 my ruling on the objection. If the objection is sustained,
3 ignore the question. If you are instructed that some item of
4 evidence is received for a limited purpose only, you must
5 follow that instruction and consider that evidence according to
6 the limitation that I tell you applies.

7 Third, testimony that I have excluded or told you to
8 disregard is not evidence and you may not consider that.

9 And anything you may have seen or heard outside the
10 courtroom is not evidence and it must be disregarded, which is
11 why I've told you not to read any press reports, or if someone
12 were to approach you to give you information, that needs to be
13 reported to me because that's not evidence.

14 Bottom line is you are to decide this case solely on
15 the evidence presented here in the courtroom.

16 There are actually two kinds of evidence: direct and
17 circumstantial. Direct evidence is direct proof of a fact,
18 such as testimony of an eyewitness. Circumstantial evidence is
19 proof of a fact or facts from which you may infer or conclude
20 that other facts exist.

21 Excuse me, I just need for you to move the
22 microphone.

23 MR. SAMUEL: Okay.

24 THE COURT: I will give you further instructions on
25 these, as well as other matters, at the end of the case, but

1 keep in mind that you may consider both kinds of evidence, both
2 direct evidence and circumstantial evidence.

3 It will be up to you to decide which witnesses to
4 believe, which witnesses not to believe, and how much of any
5 witness's testimony to accept and how much to reject. And I'll
6 give you guidelines for determining what we call the
7 credibility of the witnesses in my instructions to you at the
8 end of the case.

9 This is a criminal case and there are three basic
10 rules about a criminal case that you must keep in mind.

11 First, the defendant is presumed innocent until
12 proven guilty. The indictment against the defendant brought by
13 the government is only an accusation and nothing more. It is
14 not proof of guilt or of anything else. The defendant, as we
15 say, starts out with a clean slate.

16 Second, the burden of proof is on the government
17 until the very end of the case. The defendant has no burden to
18 prove his innocence, or to present any evidence, or to testify.
19 Since the defendant has the right to remain silent, the law
20 prohibits you from arriving at your verdict by considering that
21 the defendant may not have testified.

22 Third, the government must prove the defendant's
23 guilt beyond a reasonable doubt, and I'll give you further
24 instructions at the end of the case as to what that means. But
25 bear in mind that in this respect, a criminal case is different

1 from a civil case because the standard of proof is different in
2 a civil case, it's lower, meaning that in a criminal case it is
3 higher.

4 In this case, the defendant is charged with two
5 conspiracies and two what we call substantive offenses. I will
6 give you detailed instructions on the law at the end of the
7 case regarding what the government must prove beyond a
8 reasonable doubt before the defendant can be convicted of these
9 offenses. And it's these later instructions, those that I give
10 you at the end of the case, and the reason why they're given to
11 you at the end of the case after all the evidence is in is
12 because those instructions control your deliberations and they
13 will guide you in your determination whether the government has
14 proved beyond a reasonable doubt the offenses because that is
15 the standard that must be met before he can be convicted of
16 them.

17 But to help you follow the evidence, I want to give
18 you a brief summary of the elements of the four alleged
19 offenses. We call each of the offenses a "count."

20 The first is Count One. Count One alleges that the
21 defendant conspired to provide material support or resources,
22 which in this case is alleged to be personnel or property, or
23 to conceal the nature and source of the material support or
24 resources, knowing and intending that the material support or
25 resources would be used to prepare for, or carry out, either,

1 one, a conspiracy to murder or kidnap people outside the United
2 States; or, two, acts of violence with conduct transcending
3 national boundaries.

4 The elements of Count One which the government must
5 prove beyond a reasonable doubt are: First, that two or more
6 persons in some way or manner came to a mutual understanding to
7 try to accomplish the common and unlawful plan to provide
8 material support or resources to prepare for or to carry out a
9 conspiracy to murder or kidnap people outside of the United
10 States, or acts of violence with conduct that transcends
11 national boundaries; and second, that the defendant, knowing
12 the unlawful purpose of the plan, willfully joined in it.

13 I will, before you deliberate, define terms such as
14 "material support" and "resources" and how to consider
15 statements that a person may express in the context of the
16 elements of the alleged offenses, and I will give a variety of
17 other instructions to apply as you consider the elements on
18 this offense and all other offenses alleged in the case.

19 In Count Two the defendant is charged with the
20 offense of providing, or attempting to provide, as opposed to
21 conspiring to provide, material support or resources, knowing
22 or intending that such support would be used to prepare for or
23 to carry out certain prohibited acts.

24 The elements of Count Two, which the government must
25 prove beyond a reasonable doubt, are: First, the defendant

1 provided material support or resources, namely personnel or
2 property, attempted to provide material support or resources,
3 or concealed or disguised the nature, location, source or
4 ownership of material support or resources; and, second, the
5 defendant did so knowing or intending that the material support
6 or resources would be used in preparation for, or in carrying
7 out, a conspiracy to murder or kidnap people outside the United
8 States, or acts of violence with conduct transcending national
9 boundaries.

10 Count Three, the defendant is charged with a second
11 conspiracy. Count Three alleges that the defendant conspired
12 to provide material support or resources to a designated
13 foreign terrorist organization, mainly Lashkar-e-Tayyiba, or
14 LeT, by agreeing to provide personnel to work under the
15 direction and control of Lashkar-e-Tayyiba while knowing that
16 Lashkar-e-Tayyiba has engaged in terrorist activity.

17 The elements of Count Three which the government must
18 prove beyond a reasonable doubt are: First, that two or more
19 persons in some way or manner came to a mutual understanding to
20 try to accomplish a common and unlawful plan to provide
21 material support or resources to a designated foreign terrorist
22 organization, specifically Lashkar-e-Tayyiba; and, second, that
23 the defendant, knowing the unlawful purpose of the plan,
24 willfully joined in it.

25 In Count Four the defendant is charged with the

1 offense of attempting to provide material support or resources
2 to a designated terrorist organization known as
3 Lashkar-e-Tayyiba, or LeT. And the elements of Count Four
4 which the government must prove beyond a reasonable doubt are:
5 First, that the defendant knowingly attempted to provide
6 material support or resources to Lashkar-e-Tayyiba, a foreign
7 terrorist organization; second, that the defendant did so
8 knowing that Lashkar-e-Tayyiba has engaged or engages in
9 terrorist activity or terrorism; and, third, that either the
10 defendant is a national of the United States or the offense
11 occurred in whole or in part within the United States.

12 I remind you that I will give you further
13 instructions at the end of the case on the law that you are
14 required to follow, including on the elements of the offense,
15 the various terms that are used in the instructions, guidance
16 on how to consider evidence in the case, including statements
17 that a person may have made and that are introduced into
18 evidence.

19 The summary that I give you here now is simply to
20 help you understand the nature of the charges as you begin to
21 hear the evidence presented.

22 Let me discuss some conduct that is now required of
23 you as jurors in the case.

24 First, I have to instruct you that during the trial
25 you are not to discuss the case with anyone or permit any one

1 to discuss it with you. That includes amongst yourselves.
2 Until you retire to the jury room at the end of the case to
3 deliberate on your verdict, you simply should not talk about
4 the case with anyone, including each other.

5 Second, do not read or listen to anything touching on
6 this case in any way; and if someone should try to talk to you
7 about the case, please let me know immediately.

8 Third, as I've told you, do not do any research or
9 make any investigation about the case on your own, including
10 Internet research. And if you see any news or other
11 information about the case, simply take action immediately to
12 avoid hearing or seeing or reading the information that may be
13 published or broadcasted.

14 Finally, don't form any opinion until all the
15 evidence is in. Keep an open mind until you start your
16 deliberations at the end of the case.

17 During the course of the trial and the presentation
18 of evidence, you will hear the testimony of witnesses and
19 evidence will be introduced. You should pay close attention to
20 testimony because it will be necessary for you to rely upon
21 your memories concerning the testimony presented to you.
22 Although you can see our court reporter, Amanda, is making
23 stenographic notes recording everything that is said, and
24 you're probably familiar from watching TV programs that this is
25 a verbatim transcript, but those transcripts will not be

1 prepared and, thus, will not be available for your use during
2 your deliberations and so therefore you should not expect to
3 receive them.

4 Exhibits, on the other hand, will be available, and
5 I'll give you an example.

6 If somebody were to show a document, the focus during
7 the trial, although the whole document is admitted into
8 evidence, the focus of the trial and the testimony might relate
9 to a paragraph within a longer document. Sometimes you would
10 say, well, I really would like to read that paragraph in
11 context. You will, because once the entire document is
12 admitted into evidence, all the exhibits will be available to
13 you during your deliberations. So transcripts will not be
14 available; you'll have to rely upon your memory as to the
15 testimony. But the exhibits will be available to you in their
16 entirety.

17 I have given you the finest of writing implements, a
18 number 2 pencil and a pad. You, of course, if you want to use
19 some different implement or if you want a different kind of
20 paper, let me know and I can provide that to you. But those
21 are available to you because you may take notes during the
22 trial.

23 While you may take notes, you are not required to
24 take notes. It really depends upon how you best assimilate and
25 understand and remember information. Some people do that best

1 by taking notes. Some people do that best by not taking notes.
2 You'll have to decide for yourself what is the best practice
3 for you.

4 Let me give you one warning, and this relates to the
5 people that elect to take notes. And I bring this from my own
6 experience. I am a note taker. Sometimes, though, I find that
7 I get so involved in taking notes that I can begin to miss
8 things that are happening about which I am taking notes. I
9 would just caution you about that, that where you find yourself
10 trying very hard to take notes, that you begin missing what's
11 happening in the courtroom. That's a good indication to you
12 that you ought to back off on the taking of notes because it is
13 what happens here and what you hear here that is critical to
14 your performing your function as jurors.

15 If you do not take notes, you should rely upon your
16 own independent recollection or memory of the testimony and not
17 be unduly influenced by the notes taken by others during your
18 deliberations. Notes are not entitled to any greater weight
19 than the recollection or impression of each juror concerning
20 the testimony or evidence presented in the case.

21 I guess that's another way of saying that during the
22 deliberations, you will have your collective memories, and when
23 you have this many people listening to the evidence, that
24 provides you with the opportunity to consider and remember all
25 the evidence that's presented.

1 I've told you that you should keep an open mind and
2 you should avoid reaching any hasty impressions or conclusions
3 during the course of the trial. Reserve your judgment until
4 you have heard all of the testimony and the evidence, the
5 closing arguments, or what we sometimes called the summations
6 of the lawyers, and my instruction or my explanations to you
7 regarding the law that you must apply in the case.

8 From time to time during the trial I will be called
9 upon to make rulings of law, decide motions made by the
10 lawyers, and make other remarks. Please do not infer or
11 conclude from any ruling or other comment I may make that I
12 have any opinion on the merits of the case or that I favor one
13 side or the other, because I do not.

14 During the trial I may from time to time have to
15 confer with the lawyers on a matter outside your hearing. As
16 you know, the only evidence that you can consider is that that
17 I have determined is admissible. Sometimes I need to have a
18 full discussion about evidence to determine whether or not
19 something is or is not admissible, and if I decide that it's
20 not admissible, having had that discussion in front of you, I
21 make it harder for you if I were to instruct you not to
22 consider something to do so.

23 So the better practice for me is to ask for you, if
24 it's necessary -- and I've had a long discussion with the
25 lawyers and told them that if there are evidentiary issues that

1 require my rulings that should be on our time and not on your
2 time. Your time should be spent listening to evidence. And
3 therefore if we have issues about admissibility, I have
4 instructed them that we will do that during breaks or before or
5 after the trial days. That's the perfect world.

6 Trial is a dynamic process. I never quite know
7 what's going to happen and things do occur from time to time
8 that are not predicted. So if I ask you to retire to the jury
9 room to consider something, it's because I've made a
10 determination that in fulfilling my judicial responsibilities
11 that it is best for me to have a discussion with the lawyers
12 outside your presence, but we will try to have that discussion,
13 and I will reach my conclusion as promptly as I can, always
14 mindful of your responsibilities in the trial.

15 The order of the trial is as follows: In a second,
16 the lawyers for each of the parties, or the lawyers for the
17 government and then Mr. Sadequee, will be permitted to make
18 what we call opening statements. That's their chance to
19 outline what they expect the evidence to be in the case and to
20 discuss it in the context of their respective positions.

21 The government will first make an opening statement.
22 Next the defendant may, but he doesn't have to, make an opening
23 statement.

24 After the opening statements are done, the government
25 will go forward with the calling of witnesses, which the

1 defendant may cross-examine, and the presentation of evidence
2 and during, and other evidence in addition to witness
3 testimony, that we call the government's case-in-chief. That's
4 the government's chance to put on their evidence. They do that
5 in what we call the case-in-chief.

6 When the government finishes, the defense may proceed
7 with evidence and with witnesses if they choose, after which,
8 within certain limitations, if that occurs, I may permit
9 additional witnesses to be called by the government so long as
10 it's in rebuttal to what was presented by anything that may be
11 presented by the defense. I'll have to decide that once I see
12 how the case progresses.

13 The government begins the case and may, if
14 appropriate, present rebuttal evidence because the law places
15 the burden of proof, or what we also call the burden of
16 persuasion, upon the government. And as I said, I will explain
17 this burden as part of my instructions to you at the close of
18 the evidence and before you begin your deliberations on a
19 verdict.

20 When the evidence portion of the trial is completed,
21 the counsel for the government and Mr. Sadequee will be given
22 the opportunity to address you and make their summations, or
23 what we call final arguments sometimes, in the case. And after
24 those are done, I will instruct you on the law. And then, and
25 only then, can you, upon my instruction, begin your

1 deliberations on the case, which will be privately amongst you
2 only in the jury room.

3 We are now going to start with the opening statements
4 by the government and by Mr. Sadequee. The opening statements
5 that are made now, including the opening statement by the
6 defendant and the opening statement made by the government, are
7 not to be considered by you either as evidence in the case or
8 as your instructions on the law, which only I can give to you.

9 The statements and arguments are intended to help you
10 understand the issues and the evidence the parties expect will
11 be presented, as well as the position taken by both sides.

12 Those are your preliminary instructions.

13 Are there any objections to the instructions by the
14 government?

15 MR. MCBURNEY: Judge --

16 THE COURT: And if there are, then we should probably
17 take that outside --

18 MR. MCBURNEY: I think you can -- we'll request for
19 you to clarify something but we can talk about that at a break.
20 It won't affect what's going to happen this morning.

21 THE COURT: All right. Mr. Sadequee?

22 MR. SADEQUEE: No.

23 THE COURT: With that, then, we'll begin with the
24 opening statement by the government. Mr. McBurney?

25 MR. MCBURNEY: Good morning. My name is Robert

1 McBurney and I will be presenting the government's case to you,
2 along with Alexis Collins and Chris Bly, seated at the second
3 table.

4 The person we're here to talk about and you're here
5 to learn about is the defendant, Ehsanul Islam Sadequee, a
6 23-year-old American citizen, born in Virginia.

7 You are here to learn about this defendant and his
8 actions. He's charge, as the judge explained to you, with
9 material support for terrorism and I want to spend just a few
10 minutes talking about what that is and what that isn't.

11 Material support is the provision of goods or
12 services, property or services. It is not speech. It is not
13 saying, "I like Al Qaeda." It's not saying, "I like
14 Lashkar-e-Tayyiba." You heard that name in the judge's
15 instructions. It is providing something in support of
16 terrorists beyond speech.

17 Material support is also not an act of terrorism.
18 The defendant is not charged with saying something in favor of
19 Osama bin Laden, nor is he charged with committing an act of
20 terrorism. He's charged with providing material support to
21 those who would commit an act of terrorism.

22 You will hear no evidence in this trial that the
23 defendant had a gun, that he was building a bomb, that he had
24 joined a particular terrorist organization, because that's not
25 what the charge is. It would be a very different landscape if

1 that's what the allegation was, but it's not.

2 Here the defendant is charged with providing
3 personnel -- himself and some of his co-conspirators that you
4 will learn about -- in support of terrorism.

5 He's also charged with supplying property and that
6 property comes in a very specific form: A series of videos
7 that the defendant and his co-conspirator, Syed Haris Ahmed --
8 Mr. Ahmed also from Atlanta, you'll hear about some in this
9 trial -- traveled to Washington, D.C. in April of 2005, and
10 made over 60 small video clips of different locations in our
11 nation's capital.

12 Six of those videos ended up on the computer of a
13 gentleman by the name of Younis Tsouli, who was arrested in
14 October of 2005 in the United Kingdom. You'll hear a lot about
15 how Tsouli conspired with the defendant to provide material
16 support for terrorism and how he was in direct contact with
17 Al Qaeda in Iraq and helped facilitate people joining Al Qaeda
18 in Iraq and was very active on the web in disseminating the
19 propaganda of Al Qaeda in Iraq, a close conspirator of
20 Defendant Sadequee's. He had six of the videos that defendant
21 and Syed Haris Ahmed made.

22 Two of the videos were found on the computer of an
23 Aabid Hussein Khan.

24 I mentioned a bunch of names, these names will come
25 up again, and we hope to have a white board up here where we

1 can track these names and the monikers. Everyone has an online
2 name as well.

3 You'll learn the Defendant Sadequee was known online
4 mostly as Aboo Khubayb or Aboo Khubayb Al-Muwahhid, that will
5 be spelled for you. But most everyone you are going to hear
6 about in this case has at least two identities: their real
7 name and what they were known as online. Younis Tsouli, for
8 example was Irhabi 007, the Terrorist 007. Mr. Khan, I just
9 mentioned, was Abu Umar, among other names.

10 Now this conspiracy that I talked about, this
11 agreement that the defendant entered into, is just that, it's
12 an agreement. He's not charged in two of the counts with
13 actually providing material support; he's charged only with
14 entering into an agreement.

15 So when you hear the word "conspiracy," I want you to
16 think agreement. It means simply that the defendant entered
17 into an agreement with at least one other person to attempt to
18 provide this material support.

19 I want to touch briefly on the investigation in this
20 case. Most of what you will hear will be the results of the
21 investigation, but you'll hear a little bit from some of the
22 case agents how it started and some of the steps they took to
23 gather the evidence you will consider.

24 You'll hear that in August of 2005, the FBI in
25 Atlanta received information from foreign law enforcement about

1 an e-mail address, almuwahhid@hotmail.com. That turns out to
2 be the defendant's e-mail address.

3 FBI investigated, got information about who used that
4 e-mail address, and learned about Syed Haris Ahmed, this other
5 gentleman I mentioned, also based in Atlanta.

6 I want to let you know, you saw this in the jury
7 questionnaire, he had separate proceedings that have nothing to
8 do with what's going on today and the rest of this week.

9 So the FBI began its investigation, first learned
10 about Defendant Sadequee, Syed Haris Ahmed, only in August
11 2005. Much of the evidence you will be hearing about occurred
12 before then and was gathered subsequently by the FBI and
13 foreign law enforcement as people were arrested and their
14 computers were seized and e-mails were found on computers,
15 chats, instant messages were found on computers.

16 The first series of significant arrests occurred in
17 October 2005. Younis Tsouli, the gentleman I mentioned, or
18 Irhabi 007, the Terrorist 007, was arrested in London by
19 British law enforcement. His computer was seized and on it,
20 as I mentioned, were six of the casing videos the defendant
21 made, along with all sorts of information that could be used to
22 support terrorism, ranging from how to build bombs and IEDs,
23 improvised explosive devices, as well as how to get into
24 training camps, et cetera.

25 The second person arrested, Mirsad Bektasevic, first

1 time you're hearing his name, he was arrested in Bosnia in
2 October of 2005. He's known as Maximus, Maximus. Maximus was
3 arrested by Bosnian law enforcement in connection with the
4 arrest in the United Kingdom and in connection with the
5 investigation here in Atlanta in possession of 40 pounds of
6 plastic explosives, a bomb belt. You'll see a picture of it,
7 an actual web belt that clips here with three explosives
8 already attached, and the detonator in the same bag with the
9 belt, a firearm and a video that Mirsad Bektasevic had made
10 showing how to make detonators, some footage of the arsenal he
11 had gathered and an announcement as to what he and his
12 co-conspirators were intending to do in terms of attacks.

13 Finally, the final major step in the investigation
14 occurred in spring of 2006, when the defendant was arrested in
15 Bangladesh and brought back to the United States and his
16 closest co-conspirator here in Atlanta, Syed Haris Ahmed, was
17 arrested.

18 Now, what you will learn in the presentation of the
19 government's case is a chronology that follows roughly these
20 lines: In terms of the defendant's intent, his state of mind,
21 what it was he was trying to do, you will learn, not as
22 evidence of his guilt in this case but as evidence of his frame
23 of mind, what his plans were, that as early as December 2001,
24 15-year-old Defendant Sadequee sent an e-mail to a website that
25 is closely affiliated with the Taliban in Afghanistan. The

1 defendant indicated his strong desire to join the Taliban and
2 was asking operators of this pro-Taliban website how can I get
3 to Afghanistan and join the fight. This is immediately after
4 the September 11th attacks, U.S. forces on the ground in
5 Afghanistan fighting the Taliban.

6 Now we fast forward to the summer and fall of 2004,
7 and you'll see evidence gathered from these hard drives I
8 described that were seized from the defendant's house, Syed
9 Haris Ahmed's house, the individuals in the United Kingdom,
10 Bosnia, et cetera, that the defendant had begun to plug deeply
11 into a series of online forums, websites, where like-minded
12 individuals, supporters of violent jihad exchanged ideas,
13 voiced their support, and talked about how they could do
14 something more than just type online but actually provide
15 material support. This won't be their words, but how could
16 they get to the front lines.

17 A website in particular you will hear about is called
18 Tibyan, T-i-b-y-a-n, sometimes two A's in there. It's a site
19 on which the defendant was extremely active.

20 While he was online meeting these people he got to
21 know an individual up in Canada, goes by the name of Azdee.
22 You'll hear more about Azdee from witness testimony.

23 Azdee introduced the defendant to someone down here
24 in Atlanta, Omer Kamal. You will hear from Omer Kamal, he will
25 come here this morning and testify to you about what he knows

1 about this case.

2 Azdee knew that Kamal was based in Atlanta, the
3 defendant was based in Atlanta; you guys should get together,
4 talk about your shared interest in violent jihad.

5 The defendant had already befriended Syed Haris
6 Ahmed, someone else who shared this interest, and the three of
7 them began to spend time together, not just online but together
8 talking about what they could do to support violent jihad.

9 And it crystallized and the crime was completed --
10 we'll talk about this a little bit more when we get to the
11 law -- in the spring of 2005. In the spring of 2005 Defendant
12 Sadequee and Syed Haris Ahmed traveled to Canada to meet Azdee
13 and several other like-minded individuals, others who supported
14 violent jihad.

15 Kamal didn't go. Kamal broke away from the group
16 about then. He's a student at Georgia State, focusing on
17 accounting, and he will tell you he wasn't willing to go that
18 far.

19 But the defendant was. And it was in Canada, you
20 will hear, that the agreement was formed, the conspiracy was
21 hatched, and effectively, and according to the law, the crime
22 was complete. The evidence will show you that it was in Canada
23 that the defendant and Ahmed and the others agreed that the
24 time is now, we need to take concrete steps, we need to go to
25 Pakistan, we need to get into a training camp and join the

1 fight, the fight with LeT, Lashkar-e-Tayyiba, in Kashmir, or
2 with the Taliban in Afghanistan, or with some entity in Iraq.
3 The planning had begun.

4 Specifically on Canada, March 2005, the defendant and
5 Syed Haris Ahmed take Greyhound, go up to Toronto and meet with
6 a series of other supporters of violent jihad. They form their
7 plan. And you will see a series of chats, instant messages.
8 It almost looks like a script from a play. They will say Aboo
9 Khubayb Al-Muwahhid, defendant's online name, colon, and what
10 he typed in. And it will say Azdee, the Canadian, what he
11 typed in. Ahmed may be involved. This Abu Umar, Khan, may be
12 involved. And they talked very specifically about their plan
13 to get to Pakistan to get training and join the fight, to
14 provide themselves as personnel, as material support for
15 terrorism.

16 The next step the defendant took, the concrete step
17 beyond the agreement that was formed -- again I want to
18 emphasize, what the government needs to prove in particular as
19 to Count One is that there was an agreement to provide material
20 support to terrorists. That agreement was formed in Canada.
21 Everything the defendant did beyond that, all the evidence you
22 see beyond that, is in addition to the agreement, it's beyond
23 that.

24 In 2005, the defendant, in April 2005, the defendant
25 and Syed Haris Ahmed traveled to Washington, D.C. This is

1 where they made the videos I described. They filmed at least
2 62 short clips of various locations in Washington, D.C., not
3 the White House, they didn't focus on the Washington Monument.
4 They filmed the Department of Energy, they filmed the
5 Department of Commerce, they filmed a fuel tank farm, they
6 filmed the World Bank. There was footage of the Capitol, it
7 was primarily focused on security checkpoints. These are the
8 videos they made and some of these videos ended up on the
9 computers I mentioned overseas.

10 As I said, the defendant shared them. And you will
11 see in one instance specifically when and how he sent these
12 videos to Abu Hussein Khan, Abu Umar. He packed them in files
13 with different names.

14 I want to talk a little bit about this factor, we
15 call it consciousness of guilt. You will see throughout the
16 evidence that this is not a case about speech. It is not a
17 case about the defendant having views that may differ from
18 yours or mine, maybe he supports Al Qaeda, the struggles and
19 things that Osama bin Laden stands for. That speech is
20 protected in this country. But actions taken to provide
21 material support to those types of people are not. Those are
22 crimes. And one way, the government is suggesting, you will
23 see evidence that the defendant and his co-conspirators were
24 aware that they were on the crime side of the line is that they
25 didn't speak openly.

1 I mentioned that the defendant sent two of the casing
2 videos to Aabid Hussein Khan, Abu Umar when he was in the
3 United Kingdom, Khan was in the United Kingdom. He packaged
4 one of those videos in a file called Jimmy's 13th Birthday.
5 You'll see the chat. He doesn't say: Hey, Abu Umar, I went up
6 to Washington with my friend Syed Haris Ahmed, we had a great
7 time and I filmed some places you might like to see. I know
8 you're interested in learning about energy. I filmed the
9 Department of Energy, here it is.

10 It's very cryptic. They talk about scoping and
11 there's alligators in the lake around the building, read the
12 hieroglyphics. The World Bank video was the name of the World
13 Bank, but he first used hieroglyphics. Perhaps these videos
14 will inspire the team.

15 You'll see the language and they're always speaking
16 around the issue, using code, using words like Land of Two
17 Towers or Pharaoh for the United States. When they're talking
18 about something happening in the United States, the defendant
19 doesn't say America, or my country, United States. He and his
20 co-conspirators use terms like the Land of Two Towers or
21 Pharaoh. When they talk about Pakistan, they say Curry Land.
22 They don't want people to know what exactly they're talking
23 about.

24 You'll see a concept discussed known as "bait." When
25 the defendant and some of his co-conspirators are figuring out

1 who the leader of this conspiracy should be -- this is how
2 detailed the discussions get -- they don't just say let's do
3 this, but let's give our group a name and we need to have a
4 leader. And they're talking about possible leaders. And one
5 concern they have about Syed Haris Ahmed, whom they proposed as
6 a possible leader, is that he's too bait. In other words,
7 he'll attract the attention of law enforcement because what
8 they're doing is illegal. It's not just a Boy Scout troop
9 where you can say this is the head of the Boy Scout troop. You
10 don't need to hide the fact who the leader is and you don't
11 need to worry about whether the leader would attract the
12 attention of the police because that's not what the Boy Scouts
13 are up to. But you will see in this case the evidence shows
14 we're not talking about Boy Scouts.

15 You'll also hear a little bit about encryption from
16 witnesses, as well as an actual chat that starts out encrypted.
17 The defendant and his co-conspirators kept their conversations
18 away from as many people as they could and they took many
19 steps, to include encrypting their chats so that if you weren't
20 supposed to be a part of it all you get is gibberish, you can't
21 read what it is they're talking about.

22 After Canada and Washington, D.C., both the defendant
23 and his close co-conspirator, Syed Haris Ahmed, left the
24 country. Ahmed went to Pakistan in July of 2007. And you will
25 see from a number of chats, you'll also hear from several

1 witnesses, that his purpose for going to Pakistan was not to go
2 be with relatives. He was born in Pakistan and he did see
3 relatives while he was over there, but his purpose for going to
4 Pakistan was to get into a training camp so that he could
5 pursue violent jihad.

6 And he was in the vanguard. You'll see in the chats,
7 Ahmed says: I'll go first, I'll establish the beachhead. Let
8 me get over there, I'll make the contacts and then, Sadequee,
9 you come over, Azdee, you come over, we'll all get together and
10 we'll have our group in Pakistan training to provide material
11 support to terrorists.

12 You'll hear that Ahmed, there for about a month, was
13 talked out of his plan, at least the notion of enrolling in an
14 Islamic madrassa, where he might learn more about Islam and
15 wait for his friends to come over there, by family and
16 spiritual advisors, and he came back to the United States.

17 You'll hear evidence that after he got back, he went
18 back to Georgia Tech in August, he wasn't done. He continued
19 to pursue violent jihad. You'll hear that he was back online
20 researching high explosives, that he continued to communicate
21 in clandestine ways with Defendant Sadequee and others about
22 his plans to pursue violent jihad.

23 Now, the defendant went to Bangladesh in August of
24 2007. The day before Syed Haris Ahmed returned from Pakistan,
25 the defendant was on a plane for Bangladesh. He went to

1 Bangladesh for two reasons, the evidence will show.

2 He went to get married. You'll hear from a number of
3 witnesses, he went to get married. In fact, he did get married
4 in Bangladesh. You'll see in a number of these chats that that
5 was often a cover story discussed by the conspirators as to how
6 to get overseas with an explanation that wouldn't draw
7 suspicion: Why is this young Muslim male wanting to go to
8 Pakistan or Bangladesh? I want to get married, I'm going to
9 marry this woman, it's innocent, like that.

10 The evidence is very clear the defendant did get
11 married while he was in Bangladesh. But he also continued his
12 pursuit of violent jihad and his material support for violent
13 jihad.

14 And it was while the defendant was in Bangladesh that
15 he became particularly close to Mirsad Bektasevic, the Bosnian
16 arrested with the bombs and the gun, and Younis Tsouli,
17 Terrorist 007. And you'll hear evidence about the discussion
18 of the formation of an organization called Al Qaeda in Northern
19 Europe.

20 In fact, you'll see a formal announcement that the
21 Bosnian gentleman posted on one of these radical websites,
22 conveniently on 9-11 at the precise minute that the first plane
23 hit the first tower.

24 The announcement: Al Qaeda in Northern Europe. They
25 will be based in Sweden, and you will see evidence that the

1 defendant was trying mightily to get from Bangladesh to Sweden,
2 bringing his wife along, how to deal with the visa paperwork.
3 He mentioned -- "bayaan" means announcement -- the announcement
4 on 9-11-2005 with the formation of Al Qaeda in northern Europe.

5 And you will see a discussion between the defendant,
6 online chat, between the defendant, Younis Tsouli, and Mirsad
7 Bektasevic about the need to get a video out there announcing
8 what they're doing. And within that larger video the defendant
9 proposed placing some of his Washington, D.C. casing videos.
10 That's the property I'm talking about that was the material
11 support for terrorists.

12 I want to talk a little bit about the law. The Judge
13 told you, and he is, as usual, 100 percent correct, he tells
14 you the law but I'm given the opportunity to try to explain it
15 a little bit.

16 The counts are not complicated but the wording is
17 complicated and the way the defendant is charged may seem to
18 you to be a little cumulative. I want to try to break it down.

19 I want to repeat: Defendant Sadequee is not charged
20 with committing any terrorist act, no bomb throwing, no
21 shooting, no dead bodies.

22 He's charged with agreeing to provide material
23 support to terrorists, Count One. And then in Count Two
24 actually taking a concrete step, an attempt in that direction.

25 So Count One, all the government needs to show is

1 that the defendant conspired, that he agreed with others to
2 provide material support. We've already described in what form
3 that support comes: people, personnel, himself, Ahmed, Azdee,
4 all these others, or property, the videos. And that this
5 support had to go, not just anywhere, but to terrorists who
6 were planning on doing something here in the U.S. or something
7 abroad, acts of violence, not just having a part, but acts of
8 violence here in the United States or overseas.

9 There is no requirement for Count One that the
10 defendant actually take a substantial step, that someone get a
11 bomb, although Bektasevic did, that someone have a gun,
12 although Bektasevic did. The law allows the government to stop
13 the plan before someone enrolls in the flight school to learn
14 how to fly a jet. The crime was complete in Canada but we have
15 an additional year's worth of evidence.

16 Now, Count Two, the government needs to show -- and
17 this is the concrete step in support of this conspiracy -- that
18 the defendant actually provided, or at least attempted to
19 provide, tried to do something to get this material support to
20 the terrorists, the people or the property, to the terrorists
21 who were going to do something in the United States or abroad.

22 Now, all of the evidence you're going to hear is in
23 support of Count One and Count Two. Within that evidence there
24 exists a second set of crimes. You'll see evidence that there
25 was in fact a specific organization that the defendant and his

1 co-conspirators thought about joining. This is the
2 Lashkar-e-Tayyiba. That's what the second set of crimes are
3 about, Counts Three and Four focus more narrowly on the fact
4 that the defendant and others had identified one entity that
5 they might provide support directly to.

6 That's Count Three, the conspiracy and agreement,
7 hey, yes, we should do this thing -- not that they followed
8 through -- to provide material support, in this case just
9 personnel, no evidence that these videos were destined for LeT,
10 but that they were going to provide personnel to
11 Lashkar-e-Tayyiba, designated terrorist organization. In other
12 words, they would get to the training camps and while they were
13 there training, learning the skills, they would be under the
14 direction of Lashkar-e-Tayyiba.

15 Count Four is much like Count Two. It's the concrete
16 step version of the conspiracy. Count Four again charges the
17 defendant with attempting to provide material support. But he
18 took a step, it wasn't just the agreement. Someone did
19 something. And in this case they sent Syed Haris Ahmed to
20 Pakistan and he tried to get in. And you'll see other steps
21 that they took. But the difference between Three and Four,
22 someone actually took a concrete step to attempt to further the
23 plan to provide people to Lashkar-e-Tayyiba.

24 In the last few minutes -- and if I look up, it's
25 partly for divine guidance, there's also a clock above you all

1 that tells me how little time I have left, but I have a few
2 minutes -- I want to talk a little bit about trial logistics.
3 The judge covered most of this. This will be quick.

4 The forms of evidence. The evidence that you get
5 will come from the witnesses who will sit right up there in
6 that empty chair. There will be what they say and then
7 exhibits that the parties admit through the witnesses. It
8 won't be what I say and it won't be what the defendant says, so
9 long as he's representing himself, when he's giving his
10 statements and asking witnesses questions.

11 Now, you may well get a communication that has
12 defendant's statements in it, a chat between the defendant and
13 someone else. That statement of the defendant is evidence in
14 that document.

15 So you'll have witnesses; they'll tell you what
16 happened in the case. There will be chats, there will be
17 e-mails, there will be some other documents, and you may see a
18 few of the videos from Washington, D.C. That's generally the
19 format of how the evidence will get to you.

20 Your witnesses will range from FBI agents to an
21 expert on online jihad, things like that. There will be this
22 Omer Kamal, the friend of the defendant who was involved in
23 some of the early activities I described. There will be some
24 technical witnesses who talk a little bit about how all this
25 evidence from the hard drives was acquired. And, assuming we

1 can arrange the logistics, there's a white board over there
2 where we will be keeping track of all these monikers. You'll
3 keep track in your own way but in an effort so assist you, when
4 someone gives a moniker, so-and-so is Aboo Khubayb, we'll be
5 writing that up so you can keep track of who is who.

6 The first witness you'll hear from is one of these
7 technical folks. I just want to preview this. Typically the
8 witnesses will tell you some part of the events of this case.
9 The very first person, who will also appear later in the trial,
10 is simply going to be authenticating some evidence. You may
11 scratch your head and get real worried that it's going to be a
12 pretty slow trial. He's basically going to tell you Exhibits
13 1, 5, 10, 15 all came from a particular hard drive. He's not
14 going to talk about what those exhibits are, you'll see them
15 later. But don't despair, the witness after that, we get into
16 the facts of the case.

17 The Judge already talked to you about note taking. I
18 encourage you to do that if that's your style. You will not
19 get witness testimony back in your deliberation room but you
20 will have your notes and you will have all the exhibits.

21 And just briefly, the Judge talked about this as
22 well, the defendant as lawyer, when the defendant is
23 representing himself, what he says to you and questions he asks
24 the witnesses, it's not evidence. If it's in a document that
25 the Judge admits, some statement he made, that is evidence for

1 you to consider.

2 I want to close by repeating a couple of important
3 points.

4 It's not a case about the defendant making bombs or
5 throwing bombs. That's not the charge and that's not our
6 burden.

7 It's a case about an agreement the defendant entered
8 into with others to provide material support, not moral
9 support, not speech, this is not about his ideas; it's about
10 the defendant's actions, his actions in support of violent
11 jihad, of terrorists who were planning on committing acts
12 either in the United States or abroad.

13 It's not a case about speech, it's not a case about
14 the defendant's beliefs; it's a case about what the defendant
15 did.

16 When I come back for closing arguments, provide the
17 government's perspective on what the evidence showed, and I'll
18 end by asking you then what I'll ask you now, and that is weigh
19 the evidence carefully when you're in the deliberating room. I
20 suggest to you that after you do all that you will find that
21 the evidence will show you beyond a reasonable doubt that the
22 defendant is guilty of the crimes with which he's charged.
23 Thank you.

24 THE COURT: All right, thank you, Mr. McBurney.

25 Mr. Sadequee?

1 MR. SADEQUEE: (Foreign language spoken). I start in
2 the name of God, the Lord of grace, the most compassionate.
3 All praise belongs to God, the Lord of all the worlds, and
4 peace and blessings be upon his last Prophet and messenger to
5 mankind.

6 THE COURT: Mr. Sadequee, can you move the microphone
7 so it's pointed towards you? You might want to push it down.
8 I think that will be better.

9 MR. SADEQUEE: I won't be too long. It's going to be
10 very brief since I'm not a lawyer and I want to get to the main
11 part of the trial as well.

12 So I want to start briefly about the uncontested
13 facts about myself.

14 My name, my real name is Ehsanul Islam Sadequee,
15 nickname and my family and friends call me by Shifa, which
16 means "cure."

17 I don't want to repeat what Mr. McBurney had already
18 said, so just some brief things about myself.

19 Yes, my main activities online consisted, 90 percent,
20 of translations. Tibyan Publications is, in the English
21 language, one of the most -- actually, according to one of the
22 experts who will come, the most popular -- what do you call it?
23 -- translating publications of jihadi material in Islam, not
24 just jihad, but many books on jihad, jihad-related.

25 And when we say jihad, I'm not talking about

1 bomb-making, you know, stuff. It's ideological things on the
2 governance of God upon earth, issues of whether or not it's in
3 Islamic law, what's permissible in terms of international
4 politics, domestic Islamic politics.

5 So all that is considered jihad. Jihad is not, when
6 we say -- when the prosecutors, they say, translation jihad
7 material, it's not translation of bomb-making materials or --
8 which is legal, anyway, but we're talking about ideological
9 stuff, biographies of people of the past, people of the
10 present, so on and so forth.

11 These things are obviously not things which the
12 mainstream American, non-Muslim, Christian, Jewish, whatever
13 background, atheist, would not agree with but, nonetheless,
14 it's supposed to be protected by the First Amendment.

15 Some other things about myself. I was arrested,
16 along with a bunch of other young men in different countries,
17 Bosnia, the UK and Denmark, Canada. They arrested me from
18 Bangladesh. I was brought over here, I can't go into the
19 details because the government objected to me to say any
20 details about that.

21 So, yes, this international, GTTF, Georgia Terrorism
22 Task Force, investigation was called, code named Operation
23 Northern Exposure, ONE. Perhaps we'll be able to get into more
24 details about that later on in the case, God willing.

25 I was arrested in April of '06, 2006, brought over to

1 an Air Force base in Alaska and then to New York, where I was
2 in several, couple of months. Then I've been in Atlanta ever
3 since, more than three years, waiting for my trial, even though
4 I have been trying to get speedier trial. But, again, that's
5 another objection from the government, I can't go into the
6 details of the conditions of my --

7 MR. MCBURNEY: Objection.

8 MR. SADEQUEE: I'm not going --

9 THE COURT: Sustained. You have been instructed not
10 to discuss certain matters. You need to move on, Mr. Sadequee.

11 MR. SADEQUEE: My online name, which the prosecutor
12 has mentioned, was, it's pen name on publications, Aboo Khubayb
13 Al-Muwahhid. I had also some other monikers but that was the
14 name through which I used to publish or post online.

15 One of the focuses of mine in this trial will be, as
16 the government has also pointed out themselves in their
17 opening, that coded speech, encrypted speech, and I'll be
18 pointing out these things throughout the trial.

19 I'm not going to be making this opening too long.

20 I went to Bangladesh. I got married. That was the
21 purpose of my going to -- that's my homeland. I came back from
22 Bangladesh some brief time. Okay, 2001 I went to Bangladesh.
23 I was over there several years, until 2004. I was studying
24 over there, Islamic studies, as well as my O levels, which is
25 the British system of high school.

1 Then I came back, in 2004, to Georgia and I did my
2 SATs and my GEDs, hoping to get into university over here. And
3 during my stay in Bangladesh, before I came back to the U.S., I
4 had intended to marry my cousin, Happy, over there. There was
5 some problems, which we'll get into during the trial as to why,
6 family relations.

7 So I came back to Georgia in 2005 -- I mean 2004, I'm
8 sorry, and then I was here for one year and I was working at a
9 place called Raksha, which helps victims of domestic violence
10 of South Asian community. My sister also works there. And the
11 government will be bringing some witnesses from Raksha, my
12 coworkers.

13 Then I went back to Bangladesh in 2005 -- I was here
14 about one year -- 2005, August, to get married. And I did not
15 know how long I was going to stay over there because I knew
16 that there is just so many problems with my family over there
17 that I don't know how long I was going to stay to get married
18 there.

19 While I was over there I had online contact. The
20 government says I became very close to Irhabi 007. Online
21 chats, it's not any physical, I never met the person, never
22 even saw the person, and the chats were from cyber cafes
23 because I didn't have a computer.

24 Anyways, something very important that I want to
25 point out is that the word "conspiracy," if you look into a

1 dictionary, it's synonymous with the word "plan." Government
2 will always use the word "conspiracy" and this is, the average
3 person might not have -- familiar with the word "plan" because
4 it's a daily word that we use. We plan to go somewhere, we
5 plan to go to work.

6 So plan, according to my understanding, I believe
7 that everyone else has the same understanding, is that there
8 needs to be a -- and I'll demonstrate this throughout the trial
9 as well. There is a need for something to be defined, a place
10 that you want to go, a means of transportation that you want to
11 go there to, lodging, where you want to stay, or, in this case,
12 if someone is planning a terrorist attack, what are you going
13 to attack or how with you going to attack, who are you going to
14 attack with, against who, when?

15 So if nothing is there except a vague idea, someone
16 wants to do something somewhere with someone somehow, and
17 nothing is definite, everything is a question mark, blank, then
18 can that be called a plan? Or is that just called fantasizing,
19 that I want to one day go to Paris, France on a honeymoon. You
20 know, I want to point out this is, to me, is very important for
21 the jury to understand, everyone to understand, the difference
22 between that.

23 So when someone says, when the government says I was
24 planning a terrorist attack or I was planning to support
25 terrorism, then the government will say, for example, in

1 Canada, they said that, and they will say, that a plan was
2 devised to -- a conspiracy was formed to support terrorism.

3 And we will show that -- the defense, meaning I --
4 will show that in fact there was no plan. There was a lot of
5 talk about doing a lot of things and no one did anything,
6 right. So there was people saying that they're going to go to
7 Somalia next month or they're going to go somewhere, like
8 saying I'm going to go to Iraq next week, and nothing. I never
9 even went online to search for a ticket. I mean, a lot of just
10 empty talk. That having been said, that is how it turned out
11 prior to my arrest.

12 After my arrest, after I find out a lot of things,
13 and I don't know how much I can get into this, but about
14 Operation Northern Exposure, hopefully I'll be able to question
15 some of the FBI agents regarding this, and some of the
16 significance of coded and encrypted speech, which the
17 government has and will present who will go into these things
18 in more detail throughout the trial if I'm alive and nothing
19 happens to me, and also -- I don't want to make this too
20 lengthy and I want to get to interviewing the witnesses. Today
21 hopefully they are going to be bringing my co-defendant, Haris,
22 who I want to be questioning.

23 So I'm not an experienced lawyer, so basically this
24 is my opening as -- I think I'll leave it there.

25 THE COURT: All right. Thank you, Mr. Sadequee.

1 The government will call its first witness, please.

2 MR. MCBURNEY: Government calls Doug McGee.

3 THE COURT: Please come forward and take a place in
4 the witness box and be sworn in.

5 THE COURTROOM DEPUTY: Please raise your right hand.

6 DOUGLAS MCGEE,
7 being first duly sworn or affirmed, was examined and testified
8 as follows:

9 THE COURTROOM DEPUTY: Please be seated.

10 DIRECT EXAMINATION

11 BY MR. MCBURNEY:

12 Q. Good morning, sir.

13 A. Good morning.

14 THE COURT: Excuse me, what is that?

15 MR. MCBURNEY: I think it was our Sanctions system
16 turning on for the first, and hopefully only, time of the day
17 so we can get the exhibits up there.

18 THE COURT: Thank you.

19 Q. (By Mr. McBurney) Good morning, Mr. McGee.

20 A. Good morning.

21 Q. Where do you work?

22 A. I work at the FBI in Atlanta.

23 Q. What is your position with the FBI in Atlanta?

24 A. I am a certified forensic examiner and information
25 technology specialist with the Computer Analysis Response Team.

1 Q. What does that mean you do?

2 A. That means I identify, preserve, and examine digital data
3 of all types.

4 Q. Digital data could consist of what types of things?

5 A. CDs, thumb drives, hard drives, floppies, if we go back to
6 the old school way of doing things. We even examine cell
7 phones, you know, all types of digital data.

8 Q. Agents bring these things to you or are you also out in
9 the field trying to find and make cases?

10 A. It's a mixture of the two. We actually go out in the
11 field and retrieve data, as well as assist the agents when they
12 bring computers and hard drives and digital data into the
13 office to examine.

14 Q. But in general is your role a role that supports a case
15 that an agent has begun to make or do you make your own cases?

16 A. No. We only support the agents in cases that they have
17 started.

18 Q. Did you provide support to the case involving Defendant
19 Sadequee?

20 A. I did.

21 Q. What types of materials did the agents bring you to
22 examine?

23 A. We had a range of materials from CDs, cell phones, hard
24 drives, entire computers. And we actually went out and
25 assisted in the retrieval of data onsite at some locations.

1 Q. Okay, we'll take talk about some of those. Tell the
2 jurors briefly what it is you do. Let's just use a hard drive
3 as an example. Agent Scherck brings you a hard drive, Hey,
4 this is related to the case with the Defendant Sadequee.

5 A. Well, leaving out all the administrative work that we have
6 to do, one of the first things we do when we get a hard drive
7 from one of the case agents, and this is a very important
8 function that we perform, is we preserve that digital evidence.

9 We are one of the few forensic disciplines where we
10 have the ability to make a working copy, an exact digital copy
11 of that evidence when we're brought it. A lot of the other
12 forensic disciplines, DNA analysis, for example, in order to
13 analyze that evidence they have to destroy it in order to
14 analyze it.

15 We actually are able to make an exact working copy of
16 that evidence and only work off the working copy. We don't
17 have to touch the original once we make that working copy.

18 Q. Do you have a particular tool, electronic or otherwise,
19 that you tend to use when you are examining a hard drive to see
20 if it has some piece of evidence that an agent has asked you to
21 look for?

22 A. Yes. In particular, we have a tool known as a Forensic
23 Toolkit. It's manufactured by AccessData out of Salt Lake
24 City, Utah. That's just one of our many dozens and dozens and
25 dozens of tools that we have availability to use.

1 Q. Does FTK -- is that what we call it?

2 A. Yes, sir.

3 Q. Forensic Toolkit, does FTK enable you to search a hard
4 drive for a particular term? If you were asked to look for the
5 Abou Khubayb Al-Muwahhid moniker, can you slice and dice a hard
6 drive to see if that moniker appears anywhere in the hard
7 drive?

8 A. Yes, sir.

9 Q. Were you asked to do things like that in this case, look
10 for names, words of interest, et cetera?

11 A. Yes, sir.

12 Q. Did you receive hard drives only from the United States or
13 digital evidence only from the United States?

14 A. No, sir.

15 Q. From, in connection with this case, from Canada?

16 A. Yes, sir.

17 Q. Denmark?

18 A. Yes, sir.

19 Q. Sweden?

20 A. Yes, sir.

21 Q. The United Kingdom?

22 A. Yes, sir.

23 Q. Bosnia?

24 A. Yes, sir.

25 Q. And then domestically, you mentioned you actually were

1 involved in some acquisition, did you receive any digital
2 evidence from an address known as Brynbrooke Drive?

3 A. Yes, sir.

4 Q. That's an address associated with what individual
5 connected with this investigation?

6 A. Syed Haris Ahmed.

7 Q. Did you receive digital media from an address known as
8 Nowata Drive?

9 A. Yes, sir.

10 Q. That's associated with which individual?

11 A. I believe that's associated with the defendant.

12 Q. And how about an organization known as Raksha?

13 A. Yes, sir.

14 Q. You got digital evidence from there as well?

15 A. Yes, sir.

16 Q. You mentioned that on at least one occasion you were
17 involved actually going out in the field to secure the copies,
18 make the copies, or secure the computer, wherever the digital
19 evidence was. Which are the ones that we just mentioned were
20 you involved with out in the field?

21 A. Raksha.

22 Q. On these hard drives, this digital evidence, were you able
23 to locate instant message or chat communications that people
24 had saved?

25 A. Yes, sir.

1 Q. E-mails?

2 A. Yes, sir.

3 Q. Address books, meaning buddy lists?

4 A. Yes, sir. They're contacts and buddy lists, yes, sir.

5 Q. Saved files, a Word document or a saved web page?

6 A. Yes, sir.

7 Q. All these items that you described finding, were they
8 things that you thought might be of interest or were they the
9 product of search terms that case agents had given you?

10 A. No, sir. We are only -- we only look for items that the
11 case agent gives us to look for, sir.

12 Q. I want to talk specifically about a few sets of digital
13 evidence that you dealt with. You mentioned that you processed
14 some digital evidence from Nowata Drive, an address connected
15 with the defendant. Did you -- were you able, based on terms
16 provided by the case agents, to identify any items of interest
17 on that set of digital evidence?

18 A. Yes, sir.

19 Q. Are you able, using FTK and your training, to perform what
20 I'd call a connectivity analysis, showing that someone using
21 hard drive X at some point in time sent or received an e-mail
22 from someone using another e-mail address?

23 A. Yes, sir.

24 Q. Were you able to perform that kind of work on the Nowata
25 hard drives?

1 A. Yes, sir.

2 Q. You mentioned Brynbrooke, an address associated with Syed
3 Haris Ahmed, same type of analysis on that hard drive?

4 A. Yes, sir.

5 Q. I'd like you to look at -- you should have a series of
6 exhibits in front of you, we're not tendering many of these
7 through you, we're having you just identify some of them, at
8 the end we'll tender a few -- Government's Exhibit 71.

9 A. Yes, sir.

10 Q. 71, 75, 124, and 174 through 178.

11 A. Yes, sir.

12 Q. Are these all items, hard copy versions that you located
13 and extracted from the Brynbrooke hard drive?

14 A. They are.

15 Q. You're looking at a piece of paper right now and not a
16 hard drive, you're not wearing your white lab coat, how do you
17 know?

18 A. We've reviewed these evidence items prior to this, spent
19 many hours going through all these paper documents and
20 verifying those against the digital files that were found in
21 the digital evidence.

22 Q. Meaning you held up the paper document to confirm that
23 it's what's on the screen when you find the same thing on the
24 computer?

25 A. Yes, sir. And then I initialed off on these documents,

1 sir.

2 Q. All the numbers I just mentioned have your initial
3 somewhere on it?

4 A. Yes, sir.

5 Q. Let's move on to -- oh, one last question about those
6 exhibits. Are there, in particular the communications, an
7 e-mail or a chat, either in this folder or other folders we'll
8 look at, are there any changes you're aware of to the hard copy
9 version that doesn't exist on the original item as it is found
10 on the hard drive?

11 A. Yes, sir. In particular these documents actually have
12 translation of foreign terms and words and the translation has
13 been entered into a document itself.

14 Q. Okay. Did you enter the translation?

15 A. No, sir.

16 Q. Was the translation entered into the original evidence or
17 a copy made of the original evidence?

18 A. A copy made.

19 Q. Beyond that were there any changes made to the evidence
20 that you're aware of?

21 A. No, sir.

22 Q. More importantly, did you do anything to change the
23 digital evidence from the form it was in when it arrived in
24 your lab?

25 A. No, sir.

1 Q. The hard drive from Raksha, you told the jury you were
2 involved in actually recovering it, did you perform the same
3 type of, you call it connectivity work, that you did with
4 Nowata, finding out if there were e-mail addresses or chat
5 names on that hard drive?

6 A. Yes, sir.

7 Q. Did you receive digital media from the United Kingdom in
8 connection to an investigation over there known as Operation
9 Mazhar?

10 A. Yes, sir.

11 Q. If you would look at Exhibits 229 and 231. There should
12 be a folder.

13 A. I see 229. However, I do not --

14 Q. 231 should be a disk.

15 A. CD, I'm sorry, yes.

16 Q. 229 and -- take a step back. The digital evidence you got
17 from Operation Mazhar in the United Kingdom, was it subdivided
18 in some way? You get a big package from the United Kingdom.
19 Was the digital evidence broken down by initials or pack or
20 anything like that?

21 A. Yes, sir. We actually received multiple hard drives and
22 on each one of those hard drives were directories or folders on
23 those hard drives containing the digital evidence that the UK
24 authorities retrieved.

25 Q. Exhibits 229 and 231, which you found, were those from a

1 specific subset of the Mazhar evidence?

2 A. Yes, sir. This was from the DRH evidence, sir.

3 Q. You don't know the significance of DRH, but that's at
4 least where it was found?

5 A. That's correct.

6 Q. Someone else can explain what that is. But 229 and 231,
7 you've confirmed, came from DRH?

8 A. Yes, sir.

9 Q. You should also have in front of you Exhibit 60. It
10 should be a document also from Op Mazhar but a different subset
11 of Op Mazhar.

12 A. Yes, sir. This exhibit originated from a directory path
13 on the UK evidence known as CJG.

14 Q. Just a different subset within the Operation Mazhar
15 evidence?

16 A. Yes, sir. There were hundreds of exhibits on the evidence
17 provided by the UK.

18 Q. What type of document is it? Is it an e-mail, a Word
19 file?

20 A. This is a Word document.

21 Q. Are you able, when you recover a Word document from a hard
22 drive, to still examine its properties, who wrote it,
23 et cetera, to whom the copy of Microsoft Word was licensed?

24 A. Yes, sir. As a matter of fact, almost all Word documents
25 that a user creates have what is called metadata embedded in

1 that document. It tells you what version of Word created the
2 document, who the last author was, when the last revision was
3 made to that document. That's all part of a standard Word
4 document.

5 Q. And Exhibit 60, the metadata told you what about whose
6 copy of Microsoft Word initially created whatever Exhibit 60
7 is?

8 A. The company name that was associated with this document
9 was Raksha.

10 Q. All right, let's move to the large set of evidence in
11 front of you. Did you also receive from the United Kingdom
12 digital evidence associated with a case known as Operation
13 Praline?

14 A. Yes.

15 Q. Was that -- is that associated with a particular
16 individual that you're aware of?

17 A. To my understanding that was associated with an individual
18 by the name of Khan, spelled K-h-a-n.

19 Q. Before you you should have -- this will be a long list of
20 numbers so I'll go slowly -- 95 through 97.

21 A. Yes, sir.

22 Q. 99.

23 A. Yes, sir.

24 Q. 105 through 108.

25 A. Yes, sir.

1 Q. 110 through 123.

2 A. Bear with me just a moment. Yes, sir.

3 Q. 125. We're almost there.

4 A. Yes, sir.

5 Q. And then 142 through 144.

6 A. Yes, sir.

7 Q. All right. Do all of these have your initials on them?

8 A. They do.

9 Q. What does that signify?

10 A. Again, that signifies I spent many hours verifying these
11 printed copies against the original digital evidence that I
12 found on the evidence supplied by the United Kingdom
13 authorities.

14 Q. Through Operation Praline?

15 A. Yes, sir.

16 Q. Whatever that may be. One forensic question about Exhibit
17 96. First, not going into any content, Exhibit 96 is what kind
18 of thing?

19 A. I'm sorry?

20 Q. Is it an e-mail or a chat or a photograph? If you can
21 tell.

22 A. It's hard to make out from this but it appears to be just
23 a text document.

24 Q. Were you able, by looking at metadata or some other type
25 of data that you can look at, to determine the last date that

1 that file was modified on the original, wherever that stuff
2 came from, the original digital evidence?

3 A. Yes, sir. The modification date was May 3rd, 2005.

4 Q. Did you also receive hard drives from Bosnia?

5 A. Yes, sir.

6 Q. Were you asked to run some of these same searches?

7 A. Yes, sir.

8 Q. Mr. McGee, how do you confirm that what you received --
9 you don't need to look through any more of those. But from
10 Operation Praline, they send you a bunch of digital evidence,
11 how do you confirm that what you got is what they meant to send
12 you? Meaning didn't get erased when it went through an x-ray
13 machine at an airport, that we're talking about the same
14 evidence?

15 A. Sure. In the digital forensics world we use a
16 mathematical function known as MD5 hash and we use that for two
17 different functions.

18 One is to verify that when we have a copy or make a
19 copy that it matches the original. I guess the best way to
20 explain it would be to imagine you're making a photocopy of a
21 piece of paper and you make a photocopy and that copy -- that
22 copy machine applies this mathematical function that gives a
23 32-digit fingerprint or digital identifier to your original and
24 your copy then comes out of the copy machine and it's able to
25 tell you that that copy is an exact match based upon that

1 identifier. So that 32-digit alphanumeric character that the
2 MD5 generates, again, just like a digital fingerprint, allows
3 us to say that this is an exact copy of the starting source
4 evidence.

5 So that's one of the ways we validate. We can also
6 use that same function to find individual files that may match
7 other individual files.

8 Q. Did the MD5 hash values for all these items we just talked
9 about match? Meaning what you extracted through FTK and what
10 you do, versus the original evidence as received from the
11 United Kingdom or Brynbrooke Drive or wherever.

12 A. They did.

13 Q. Were there video files of particular interest to the
14 investigators in this case that you were asked to search for?

15 A. Yes, sir.

16 Q. Videos of what type of thing?

17 A. The videos appear to be of locations in and around
18 Washington, D.C.

19 Q. Were you able -- let's take a look at Exhibit 10. Were
20 you able to find on the digital media from Operation Mazhar,
21 not the Khan case but the other case, any of these Washington,
22 D.C. videos?

23 A. Yes.

24 Q. How many?

25 A. There were six.

1 Q. Are they on that disk?

2 A. They are on Exhibit 10, yes, sir.

3 Q. Have you viewed what's on Exhibit 10?

4 A. Yes, sir.

5 Q. Are those exact copies of the six videos of the
6 Washington, D.C. area that you found on the Operation Mazhar
7 hard drives?

8 A. Yes, sir.

9 MR. MCBURNEY: The government tenders Exhibit 10.

10 THE COURT: Any objection?

11 MR. SADEQUEE: No.

12 THE COURT: It's admitted.

13 Q. (By Mr. McBurney) These files, if you recall, were found
14 where? And I don't mean what was the file pack, but were they
15 packaged in anything or protected in any way?

16 A. Yes. These were, again, included in that forensic
17 evidence that was included in that DRH folder on the Operation
18 Mazhar evidence.

19 Q. Were they stand-alone files? Were they zipped into a
20 folder?

21 A. They were actually included in a zip file on that evidence
22 identified as washington.zip.

23 Q. Was that file, washington.zip, password protected?

24 A. It was password protected by the operating system, yes.

25 Q. What do you mean by that?

1 A. Windows has a feature known as the encrypted file system,
2 wherein a user can actually encrypt their entire home directory
3 so every file that's in their home directory gets encrypted.

4 In this particular case, if I remember correctly, DRH
5 included over 20,000 encrypted file items.

6 Q. But just so we're clear on this, you say the operating
7 system encrypted it. This wasn't Bill Gates deciding that a
8 file should be encrypted. The user has to take some concrete
9 step?

10 A. Yes, sir. The user has to take direct action to turn on
11 the encryption.

12 Q. Okay. Let's take a look at Exhibit 11. Were you able to
13 recover from the Operation Praline digital evidence any of
14 these Washington videos we've been talking about?

15 A. Yes, sir.

16 Q. How many?

17 A. Two.

18 Q. On Government's Exhibit 11, do those two video clips of
19 Washington, D.C. exist?

20 A. Yes, sir.

21 Q. Are they exact copies of what you found on the Operation
22 Praline digital evidence?

23 A. Yes, sir. And going back to that MD5 hash, that's how we
24 identify these views as being exact matches.

25 MR. MCBURNEY: Government tenders Exhibit 11.

1 THE COURT: Any objection?

2 MR. SADEQUEE: No.

3 THE COURT: It's admitted.

4 Q. (By Mr. McBurney) Same question about these two files,
5 were they just sitting out in the open in a directory called My
6 Videos of Washington, D.C.?

7 A. No, sir.

8 Q. Where did you find these two videos?

9 A. There were two files found, one in each of the -- they
10 were encrypted .rar files, which is very similar to a zip, it's
11 a compressed archive. Those -- there was a video file in each
12 one of these .rar files. One of the .rar files was identified
13 as volleyballcontest.rar and Jimmy's13thbirthday.rar.

14 Q. Inside the container called volleyballcontest.rar was
15 there some other file about volleyball?

16 A. No.

17 Q. Just this Washington video?

18 A. Just the Washington, D.C. video.

19 Q. Same question about Jimmy's13thbirthday, was there an
20 invitation or picture of a party hat inside
21 Jimmy's13thbirthday?

22 A. No, sir.

23 Q. Just the Washington video?

24 A. Just the Washington video.

25 Q. Last exhibit in front of you, Government's Exhibit 12, did

1 you find any of the Washington videos on what we call the
2 Brynbrooke hard drive, the hard drives that you said came from
3 the family home of Syed Haris Ahmed?

4 A. Yes, sir.

5 Q. How many?

6 A. 62.

7 Q. Were those files on the Brynbrooke hard drive in deleted
8 space or unallocated space?

9 A. No, sir.

10 Q. In some directory somewhere?

11 A. Yes, sir.

12 Q. 62 distinct files or copies of --

13 A. 62 distinct files and they were in two separate
14 directories.

15 Q. Each set of 62?

16 A. No. They were spread across two separate directories and
17 the directory names were 2005_04_10 and 2005_04_11.

18 Q. Is that typically a date or what is that?

19 A. That typically is a date. The digital camera software, if
20 you take a series of photos over a series of days, it will
21 actually automatically separate the photos for you.

22 Q. So translate those numbers that you just read into dates,
23 if they are dates?

24 A. April 10th, 2005, and April 11th, 2005.

25 Q. Okay. And the 62 videos you found using your tools on the

1 Brynbrooke hard drive, are they accurately and completely
2 copied onto Government's Exhibit 12?

3 A. Yes, sir.

4 MR. MCBURNEY: Government tenders Government's
5 Exhibit 12.

6 THE COURT: Any objection?

7 MR. SADEQUEE: No.

8 THE COURT: It's admitted.

9 Q. (By Mr. McBurney) In that universe of 62, are the six
10 videos found in the Operation Mazhar digital evidence included?

11 A. Yes, sir.

12 Q. And the two videos that were found on the Khan or
13 Operation Praline digital evidence?

14 A. Yes, sir.

15 Q. So everything found in the UK is also in the group of 62?

16 A. Yes, sir.

17 Q. All right, one second.

18 (Pause in the proceedings.)

19 MR. MCBURNEY: Thank you, sir.

20 THE COURT: Mr. Sadequee?

21 MR. SADEQUEE: No questions.

22 THE COURT: Thank you very much.

23 We want this witness subject to recall, I assume?

24 MR. MCBURNEY: Yes, sir.

25 THE COURT: We are going to release you subject to

1 recall. You should not discuss your testimony with anybody
2 until you have been recalled or released. Thank you for being
3 with us.

4 THE WITNESS: Thank you, Your Honor.

5 THE COURT: Call your next witness, please.

6 MR. MCBURNEY: Omer Kamal.

7 THE COURT: Mr. Kamal, if you will come forward,
8 stand in the witness box and be sworn.

9 THE COURTROOM DEPUTY: Please raise your right hand.

10 MOHAMAD OMER KAMAL,
11 being first duly sworn or affirmed, was examined and testified
12 as follows:

13 THE COURTROOM DEPUTY: Please be seated.

14 DIRECT EXAMINATION

15 BY MR. MCBURNEY:

16 Q. Good morning, sir.

17 A. Good morning.

18 Q. Could you, one, move a little closer to the microphone, or
19 move it closer to you?

20 A. Sure.

21 Q. And then, two, state your name, spelling it for the
22 record.

23 A. Mohamad Omer Kamal, M-o-h-a-m-a-d O-m-e-r K-a-m-a-l.

24 Q. Mr. Kamal, how old are you?

25 A. 26.

1 Q. What line of work are you in?

2 A. An accountant.

3 Q. Do you work here in Atlanta?

4 A. Yes.

5 Q. Where were you born?

6 A. Baltimore, Maryland.

7 Q. How long have you lived in -- do you live in the Atlanta
8 area?

9 A. Yes.

10 Q. How long have you lived in the Atlanta area?

11 A. Since 1985.

12 Q. Is your family originally from the United States?

13 A. No.

14 Q. Where?

15 A. India.

16 Q. Are you Muslim?

17 A. Yes.

18 Q. From what college did you graduate?

19 A. Georgia State.

20 Q. When?

21 A. 2005.

22 Q. You've been working in accounting since then?

23 A. Yes.

24 Q. Mr. Kamal, have you been interviewed by the FBI prior to
25 today?

1 A. Yes.

2 Q. What was the date of, meaning month and year, if you
3 recall, of your first interview with the FBI in connection with
4 this case, Defendant Sadequee and Syed Haris Ahmed?

5 A. Around February 2006.

6 Q. When you met with the FBI back then were you asked
7 questions about your connection to Defendant Sadequee and Syed
8 Haris Ahmed?

9 A. Yes.

10 Q. Were you forthright with the agents? Meaning did you tell
11 them everything you remembered about your relationship with the
12 defendant and Syed Haris Ahmed?

13 A. The most part, yes, but there were some items that I
14 didn't bring forth until later.

15 Q. Why is that?

16 A. I was reluctant. I wasn't sure if I was the target of the
17 investigation. There were some items I didn't think were
18 relevant at that time.

19 Q. In subsequent interviews did you share the information
20 that you withheld in the earlier interviews?

21 A. Yes.

22 Q. Did you have an attorney with you during your interviews
23 with the FBI?

24 A. Yes.

25 Q. Each time?

1 A. Yes.

2 Q. Is this an attorney that you brought or was provided for
3 you?

4 A. I brought.

5 Q. Have you been provided immunity for your testimony?

6 A. Yes.

7 Q. What's your understanding of how that works?

8 A. As long as I tell the truth I have nothing to worry about.

9 Q. What happens if you say something that is untruthful now
10 that you've been sworn in?

11 A. The immunity agreement is void.

12 Q. The agreement being?

13 A. The immunity agreement.

14 Q. Tell the jurors briefly what it is you were worried about
15 that you sought protection from.

16 A. I was worried that if I came up here and testified, that
17 maybe later on the government would change its mind and decide
18 to make me a target of the investigation.

19 Q. What types of things, though? What I'm trying to explore
20 is what is it that you're worried about that you did that could
21 get you in trouble?

22 A. Discussed about jihad or went onto websites that promoted
23 it or other activities in connection with it.

24 Q. We'll talk about all that stuff now. I want to go back to
25 the summer of 2004. Summer of 2004 and the fall of 2004,

1 you're still a student?

2 A. Yes.

3 Q. At?

4 A. Georgia State.

5 Q. Were you active online at that time in Islamic websites,
6 Islamic forums, et cetera?

7 A. Yes.

8 Q. These places that you were visiting online, describe them
9 to the jury.

10 A. Most of them were websites that talked about Islam. Some
11 talked about mainstream Islam. Some espoused views that are
12 extreme or that glorify violence.

13 Q. Were there questions or concerns or interests that you had
14 for which you were seeking answers by going to these places?

15 A. Yes.

16 Q. Tell the jury what was going on for you.

17 A. Basically this was the post-9-11 world. The U.S. had
18 invaded Afghanistan. The Iraq war was about to start and it
19 started to pick up and I felt that the U.S. in some way was
20 trying to dominate or colonize the Muslim world and I was
21 looking for answers. In the media here you only hear the
22 American side of the story and I wanted to hear the other side
23 of the story.

24 Q. At that time did you perceive that the war on terror had
25 evolved into something else?

1 A. Yes.

2 Q. Tell the jury.

3 A. I felt it was a war on all Muslims around the world.

4 Q. Were you also exploring online to find out if you had
5 certain obligations, according to Islam?

6 A. Yes.

7 Q. Tell the jury about that.

8 A. Whether, you know, we had to go and support people who
9 were using violence to counter the U.S. initiatives or goals in
10 the Muslim world and how to basically correct the situation in
11 the Muslim world.

12 Q. When you say people were trying to counter the U.S., what
13 types of places are we talking about in 2004?

14 A. Iraq, Afghanistan.

15 Q. What does the term "hijrah" mean? H-i-j-r-a-h.

16 A. It means to move from a non-Muslim-dominated place to a
17 Muslim-dominated place.

18 Q. And the word jihad, j-i-h-a-d, generically what does it
19 mean to you?

20 A. Generically it means a struggle.

21 Q. In the context of this war on Islam and dealing with this
22 perception that America is engaged in a war on Islam, did jihad
23 had have a different meaning or more refined than simply
24 "struggle"?

25 A. Yes. It meant to use military means in the struggle

1 against the U.S.

2 Q. And in that meaning of jihad, which I'm going to call it
3 violent jihad, did hijrah have a more specific meaning than
4 simply migration?

5 A. It could mean to move to a location where it would
6 facilitate you to participate in violence.

7 Q. Did you at some point contemplate making this type of
8 hijrah, going to Muslim lands to support violent jihad?

9 A. Yes.

10 Q. Did you have a particular location in mind?

11 A. No. Any theater of combat would have worked.

12 Q. "Theater of combat" meaning Afghanistan or Iraq or
13 Chechnya?

14 A. Yeah.

15 Q. Okay. I want to talk a little bit about these websites
16 that you went to to answer questions and learn more about these
17 things we just talked about.

18 What's the first site, you can go further back than
19 2004, what's the first site you turned to for answers and
20 information?

21 A. Either azzam.com or Clear Guidance.

22 Q. Let's start with azzam.com. Did it have a particular
23 focus when you first started going there?

24 A. Originally focused on Chechnya but after 9-11 it focused
25 on Afghanistan.

1 Q. Azzam.com after 9-11 focused on Afghanistan, which would
2 mean supporting what organization?

3 A. The Taliban.

4 Q. Did you visit azzam.com in the post-9-11 period?

5 A. Yes.

6 Q. You mentioned Clear Guidance. Tell the jurors a little
7 bit about Clear Guidance.

8 A. It's a message board where you can post threads. All
9 types of people went there. You could talk about anything from
10 like recipes to politics, jihad or just regular mainstream
11 Islam. It had a little bit of everything.

12 Q. When you say jihad, when you're talking about it on Clear
13 Guidance, we're talking about what I call violent jihad?

14 A. Yes.

15 Q. So there was at least some segment of Clear Guidance where
16 that was the topic?

17 A. Yes.

18 Q. Did you visit that part of Clear Guidance?

19 A. Yes.

20 Q. As we move forward in time, what's the next site you begin
21 to frequent?

22 A. Reviving Islam, that was an intermediary site after Clear
23 Guidance got shut down.

24 Q. Did Reviving Islam have that same breadth of discussions
25 of Islam ranging from recipes to violent jihad, or was it

1 narrower?

2 A. Yes, it still had that same spectrum but it did focus a
3 little bit more on jihad and violent jihad.

4 Q. And after Reviving Islam?

5 A. Tibyan.

6 Q. Tibyan, a website. Same question about spectrums, we go
7 from recipes to violent jihad. Was Tibyan more focused still
8 than Reviving Islam was?

9 A. Yeah, it was more focused on violent jihad.

10 Q. What was the time frame as to when you began going to
11 Tibyan?

12 A. I would say late 2004.

13 Q. Late 2004. When you first went to Tibyan, could you
14 simply just log on and get there or did you have to provide
15 a --

16 A. Yeah. You just went on the website and you filled out an
17 application form and within a day you usually got approved,
18 your user name and password.

19 Q. You were approved when you applied?

20 A. Yeah.

21 Q. At some point did you stop going to Tibyan?

22 A. Yes.

23 Q. At that point in time -- we'll get there -- was it so
24 simple that you could simply apply and get on Tibyan?

25 A. I think they had a screening process towards the very end.

1 Q. Tell the jurors what you mean by a screening process.

2 A. I guess if the person applied, perhaps the moderators, I
3 don't know exactly how it would work, but they would check to
4 see if someone knew that person from online, or if you knew a
5 friend who worked on the website, you could ask them, you know,
6 you can message them on the Internet chat room to give you
7 access to the website.

8 Q. So if I tried, I guess in 2005, when you stopped using
9 Tibyan, to get on, and they didn't know me and I didn't know
10 anyone, I couldn't get in?

11 A. It would have been difficult.

12 Q. It would have?

13 A. Difficult.

14 Q. If we line up all the websites we talked about, Clear
15 Guidance, Reviving Islam and Tibyan, which of the three would
16 you say was the most focused on violent jihad?

17 A. Tibyan.

18 Q. Did you meet, while you were frequenting Tibyan or
19 Reviving Islam or Clear Guidance, like-minded persons, meaning
20 people who were interested in this war on Islam and what a
21 young Muslim male in the United States, or in the world, not in
22 the Muslim land, obligations were?

23 A. Yes.

24 Q. Share with the jurors some of the names -- when I say
25 meet, I should clarify this. Did you meet online, not face to

1 face?

2 A. Yes.

3 Q. Who were some of the people you met online?

4 A. Abu Dujanah, Ismiyy, Azdee, Al-Muwahhid, Sbualy.

5 Q. These are all screen names you're giving?

6 A. Yeah.

7 Q. Okay. Let's talk about Azdee a little bit. Is that
8 someone that you communicated with electronically, e-mail,
9 chat, et cetera, fairly regularly?

10 A. For a period of time, yes.

11 Q. For a period of time. What's that period?

12 A. Late 2004 to early 2005.

13 Q. Where was Azdee based?

14 A. Canada.

15 Q. Did Azdee ever introduce you to anyone here in Atlanta
16 online, Hey, whatever you were known as online, this guy is in
17 Atlanta as well, maybe you should talk to him?

18 A. Yes.

19 Q. What was the online name of the person that Azdee
20 introduced you to?

21 A. Al-Muwahhid.

22 Q. Did you, on Azdee's recommendation, end up communicating
23 electronically with Al-Muwahhid?

24 A. Yes.

25 Q. What was the connection Azdee suggested you and

1 Al-Muwahhid might have beyond geography? You're both in
2 Atlanta. Was it that he knew you were a Braves fan and
3 Al-Muwahhid was a Braves fan?

4 A. We both frequented those websites and chat rooms, like
5 Tibyan's or Clear Guidance, websites that espouse those views.

6 Q. As a result of meeting Al-Muwahhid online, did you and
7 Al-Muwahhid arrange to meet face to face because you're both in
8 Atlanta?

9 A. Yes.

10 Q. Did that come to pass?

11 A. Yes.

12 Q. When and where?

13 A. It happened around August 2004 at Grant Park. There was
14 an event going on called Muslim Day.

15 Q. You went down there and met Al-Muwahhid?

16 A. Yes.

17 Q. Do you see in court today the person that you met in Grant
18 Park in August of 2004?

19 A. Yes.

20 Q. Can you briefly describe what he's wearing?

21 A. He's wearing a beige thobe, I believe.

22 Q. Okay. Beard?

23 A. Yes.

24 MR. MCBURNEY: All right, let the record reflect he's
25 identified the defendant.

1 Q. (By Mr. McBurney) So you met Al-Muwahhid in Grant Park,
2 2004. Did you get his name then or it remained, Just called me
3 Al-Muwahhid?

4 A. No. I got his name.

5 Q. What name did he give you?

6 A. Shifa.

7 Q. Is that the first person you met face to face as a result
8 of your time online in places like Tibyan?

9 A. Yes.

10 Q. Did you and the defendant begin to spend time together in
11 person after you met in Grant Park?

12 A. Yes.

13 Q. What types of things would you do when you got together?

14 A. I would bring over, you know, videos or lectures or
15 nasheeds, multimedia stuff. Or, you know, we just would talk,
16 talk about stuff that we saw on the websites that I mentioned
17 earlier or other things also.

18 Q. Was there a common theme to the videos you brought over,
19 the lectures, the nasheeds, songs, or whatever you all had been
20 looking at online?

21 A. Many of them supported violent jihad.

22 Q. Did the defendant introduce you to anyone else in Atlanta
23 who shared this same interest?

24 A. Yes.

25 Q. Who was that?

1 A. Haris, Syed Haris Ahmed.

2 Q. Is that someone the defendant already knew based on his
3 representation to you?

4 A. Yes.

5 Q. Had you known Syed Haris Ahmed before the defendant
6 introduced him to you?

7 A. No.

8 Q. And what generically was it that the defendant said to you
9 as to why you'd be interested in meeting this guy?

10 A. He shared our same views on violent jihad.

11 Q. Those views being?

12 A. That we had an obligation to help those fighting America
13 and other countries.

14 Q. Month and year that the defendant introduced you to Syed
15 Haris Ahmed?

16 A. Around either September or October 2005.

17 Q. So between August and --

18 A. 2004, sorry.

19 Q. 2004. So between August 2004 and September, October 2004,
20 any contact you had with the defendant was just you and the
21 defendant, no --

22 A. Yeah.

23 Q. After you met Syed Haris Ahmed, did he begin to join you
24 at times when you met with Defendant Sadequee to talk about,
25 look at online, matters related to violent jihad?

1 A. Yes, sometimes.

2 Q. In the fall of 2004, when you met Syed Haris Ahmed, was he
3 a student?

4 A. Yes.

5 Q. Where?

6 A. Georgia Tech.

7 Q. Did you and the defendant and Syed Haris Ahmed sometimes
8 attend the same mosque?

9 A. Occasionally, yes.

10 Q. What was that?

11 A. 14th Street Mosque.

12 Q. I want to talk a little bit about names but our white
13 board is wedged way in there, so I may get the names from you
14 and we'll revisit this. We'll have to spell them.

15 First in-person names, you go by what name? When you
16 would be with -- you went by what name when you were with the
17 defendant and Syed Haris Ahmed?

18 A. Omer.

19 Q. And the defendant went by what name?

20 A. Shifa.

21 Q. Shifa?

22 A. Yeah.

23 Q. Okay. Had you ever called him anything else when you were
24 talking face to face?

25 A. Sometimes Ihsan but most of the time I called him Shifa.

1 Q. How about Syed Haris Ahmed?

2 A. Haris or Haarith.

3 Q. That second one you said, how do you spell that?

4 A. H-a-a-r-i-t-h.

5 Q. Is that a different pronunciation of Haris?

6 A. Yeah.

7 Q. So Omer, Shifa and Haris. In the online world what did
8 you go by?

9 A. Falook.

10 Q. Can you spell Falook?

11 A. F-a-l-o-o-k.

12 Q. Did you have any other online monikers or names?

13 A. Yes, Abu Hurayrah, Al-Hindee.

14 Q. Can you spell Hurayrah slowly?

15 A. H-u-r-a-y-r-a-h.

16 Q. Okay. And Al-Hindee?

17 A. A-l-H-i-n-d-e-e.

18 Q. So Falook and Abu Hurayrah, Al-Hindee, what was your
19 online, the e-mail address you used most frequently?

20 A. Omerkamal@hotmail.com.

21 Q. So your middle name and last name as one word?

22 A. Yeah.

23 Q. All right. The defendant, you mentioned you met him as
24 Al-Muwahhid. Did you become familiar with any other online
25 names that the defendant used?

1 A. Sometimes he would add Aboo Khubayb before Al-Muwahhid.

2 Q. Let's spell Aboo Khubayb.

3 A. A-b-o-o K-h-u-b-a-y-b.

4 Q. So Aboo Khubayb or Aboo Khubayb Al-Muwahhid. Anything
5 else you saw him use online, e-mail address or moniker?

6 A. Sadshifa@hotmail.com.

7 Q. So the Shifa that you mentioned but with s-a-d in front of
8 it?

9 A. Yes.

10 Q. And Syed Haris Ahmed, his online name?

11 A. Sometimes he used Thanda Mazaq and Abu Turaab
12 al-Quraishee.

13 Q. We'll walk through both of those. Can you spell Thanda
14 Mazaq?

15 A. T-h-a-n-d-a M-a-Z-a-Q.

16 Q. And then this Abu Turaab, whatever it was?

17 A. A-b-u T-u-r-a-a-b A-l-Q-u-r-a-i-s-h-e-e.

18 Q. So Abu Turaab, sort of like Aboo Khubayb, but then he
19 added to it Al-Quraishee, and then the Thanda Mazaq you
20 mentioned.

21 Let's talk a little bit about what would happen when
22 you and the defendant, and it sounds like sometimes Syed Haris
23 Ahmed, were together. Was there a place where you would
24 typically meet when you were going to look at these videos or
25 listen to these nasheeds, et cetera?

1 A. A lot of times it was at Shifa's house.

2 Q. Do you remember the street name of where his house was?

3 A. Nowata Drive.

4 Q. Nowata Drive, and why was it more often at the defendant's
5 house as opposed to your house, for example?

6 A. He didn't drive.

7 Q. And why not Syed Haris Ahmed's house?

8 A. It was too far away.

9 Q. Where was that house, if you remember?

10 A. Somewhere in Dawsonville or Cumming.

11 Q. Do you remember a street name or just that it was --

12 A. Way up there.

13 Q. Okay. So you're typically at the Nowata Drive address,
14 you guys would talk. Would you get online at the defendant's
15 house?

16 A. Yes.

17 Q. Why would you need to bring videos, other digital files to
18 his house if you could get online at his house?

19 A. He didn't have DSL.

20 Q. Meaning?

21 A. His Internet connection was slow.

22 Q. He had dial-up access?

23 A. Yes.

24 Q. The nasheeds, let's talk about those first, those are
25 songs?

1 A. Yes.

2 Q. In Arabic?

3 A. Yes.

4 Q. How would those, if they are in any way, be connected with
5 supporting violent jihad?

6 A. Some of them were like, kind of like Army marching songs,
7 so I guess people fighting there would sing those songs.

8 Q. Would you at times bring those types of nasheeds over to
9 Defendant Sadequee's house?

10 A. Yes.

11 Q. To listen to?

12 A. Yes.

13 Q. You mentioned speeches. Are these speeches of FDR, MLK?

14 A. Clerics, religious people, some of them extreme, some of
15 them moderate.

16 Q. Would you ever provide, bring over speeches from folks
17 that we might have heard of, Osama bin Laden or Zarqawi?

18 A. Yes.

19 Q. Were any of these speeches in Arabic?

20 A. Yes.

21 Q. Back in late 2004, early 2005, when this was happening,
22 were you fluent in Arabic?

23 A. No.

24 Q. Was there someone in your group, Ahmed, Sadequee and you,
25 who could translate this?

1 A. Yes.

2 Q. Who?

3 A. Shifa could do it sometimes.

4 Q. So if a speech was in Arabic he'd try to let you know what
5 was going on?

6 A. If he understood, yes.

7 Q. Videos, you mentioned you brought videos over. Typically
8 what were these videos of?

9 A. Sometimes they were speeches. Sometimes there was video
10 clips of insurgents from Afghanistan or Iraq or Chechnya.

11 Q. Just marching or doing what kinds of things?

12 A. Sometimes marching, sometimes planting their IED devices
13 or shooting their guns or rockets.

14 Q. Where did you get most of these things that you brought
15 over to the defendant's house?

16 A. A lot of times they were from links provided on Tibyan.

17 Q. So you go to Tibyan to find the IED, improvised explosive
18 device, video. They wouldn't be on Tibyan but click here and
19 they'll direct you to where it is?

20 A. Yeah.

21 Q. Did the defendant ever ask you to keep or to get copies of
22 what you brought him because of his slow computer?

23 A. A lot of times I would offer it myself, I would burn him a
24 copy and give it to him. Sometimes he would ask if he could
25 get a copy.

1 Q. Did he ever refuse, you'd bring him a copy, he'd say, No,
2 no, no, that stuff is not for me?

3 A. No, not that I remember.

4 Q. When you would be at the defendant's house viewing,
5 listening, talking about these things, whether or not Syed
6 Haris Ahmed was there, were there other members of the
7 defendant's family who were around, as in the same room with
8 you participating in the discussions and the viewings?

9 A. No. Only one time his brother was there for part of a
10 video but that was it.

11 Q. What's his brother's name, if you remember?

12 A. I don't remember.

13 Q. Okay. Older or younger?

14 A. Older.

15 Q. And just one time you recall him being in the room. What
16 were you watching?

17 A. I recall it being Osama bin Laden's letter to America but
18 he wasn't there for the whole time.

19 Q. Okay. But no other members of the defendant's household
20 routinely joined in with you in discussing any of this?

21 A. No.

22 Q. You mentioned that Syed Haris Ahmed's home was much
23 further away, Dawsonville, wherever it was. Did you ever end
24 up going there with the defendant to get together?

25 A. I went there. I didn't go with him, he was already there

1 but, yeah.

2 Q. But the three of you met --

3 A. Yes.

4 Q. -- at Syed Haris Ahmed's house?

5 A. Yes.

6 Q. Did you use the computer there?

7 A. One time, yeah.

8 Q. Did you discuss some of the same types of things that you
9 talked about and viewed and listened to at the defendant's
10 home?

11 A. Yes.

12 Q. When you were doing that at Syed Haris Ahmed's house were
13 there other family members joining in the conversation?

14 A. No.

15 Q. Just the three of you?

16 A. Yes.

17 Q. Is there anything else you did besides talk and view
18 things when you were at Ahmed's house?

19 A. We went paintballing.

20 Q. All right. We'll talk about that in a minute. Did you
21 three ever spend time at your house, the Kamal household?

22 A. Yes.

23 Q. Same kind of thing, meaning you would do the same kinds of
24 things?

25 A. Most of the time it was only Shifa who came over and one

1 time Haris came because it was too late for him to drive home.
2 So Shifa was with him, so they slept at my house.

3 Q. But those times when the defendant came to your house was
4 it -- you played Clue or was it same thing, we're looking at
5 videos, talking about the causes that interested you?

6 A. Yes, that's correct.

7 Q. The latter?

8 A. The videos, yeah, the latter.

9 Q. As between Syed Haris Ahmed and the defendant, to whom
10 were you closer?

11 A. I knew Shifa better.

12 Q. Now, we've talked about, for a while, your face-to-face
13 time with the defendant and Syed Haris Ahmed after you got to
14 know them, fall, winter and early 2005, late '04, early '05.
15 Did you also continue to go online during this time?

16 A. Yes.

17 Q. So you're still in contact with Azdee. You mentioned Abu
18 Dujanah, these other names?

19 A. Yes.

20 Q. Did you continue to communicate electronically, chat or
21 e-mail, with the defendant and Syed Haris Ahmed after you had
22 met them in person?

23 A. Yes.

24 Q. So both channels were open, face to face and electronic?

25 A. Yes.

1 Q. Who is Aboo Sulaymaan online?

2 A. He was a Somaliian who lived in Canada.

3 Q. A Somaliian in Canada?

4 A. Yeah.

5 Q. Someone that you met through Tibyan or Clear Guidance or
6 one of these places?

7 A. Yeah, Clear Guidance.

8 Q. You mentioned Abu Dujanah. Abu Umar, did you ever
9 encounter an Abu Umar online?

10 A. He posted on Tibyan. He was in the chat rooms but he
11 wasn't on my chat list, my contact list.

12 Q. Someone you had heard of?

13 A. Yes.

14 Q. Did the defendant ever talk to you about Abu Umar?

15 A. Yes.

16 Q. What did the defendant tell you about Abu Umar?

17 A. Said he chatted with him and that he lived in England and
18 he had a lot of people with him that shared the same interest,
19 like-minded people.

20 Q. The interest being?

21 A. Violent jihad.

22 Q. So Abu Umar was in the UK, defendant knew him. Anyone
23 else besides names you've already given that's now coming to
24 mind that you frequently -- or knew online?

25 A. No.

1 Q. How would you typically communicate with these various
2 people online? E-mail or chat?

3 A. Mostly chat.

4 Q. I'm calling it chat. What would you call it when you're
5 online?

6 A. Chat.

7 Q. Chat, okay, that's the same as instant messaging?

8 A. Yes.

9 Q. If you and I were online, I might type a sentence, "Hey,
10 Omer, how are you?" You type back, "Robert, I'm fine"?

11 A. Yes.

12 Q. Actual back and forth, not quite voice but typing?

13 A. Yes.

14 Q. There's something called voice-over Internet?

15 A. Yes.

16 Q. Where you can actually talk as part of the chat, like
17 Skype?

18 A. Yes.

19 Q. Did you ever do that with any of these people?

20 A. Yes, we used Paltalk.

21 Q. Paltalk?

22 A. Yeah.

23 Q. And that enabled you to type and verbally communicate?

24 A. You could verbally communicate or people would play
25 audios.

1 Q. Mostly the same people you mentioned, with Paltalk, Azdee,
2 the defendant? Who would you Paltalk with?

3 A. Usually the rooms could have like up to 40 people, 40, 50
4 people, so there are large rooms. Sometimes less, 20. Azdee
5 was there, Shifa was there sometimes, I was there, Abu Dujanah
6 was there.

7 Q. So the jurors follow this, you could have a Paltalk group
8 discussion with 20 people able to talk at the same time?

9 A. Yeah, because we logged in Paltalk, you could search for
10 different rooms.

11 Q. And all these people, if you had a group of 20 that you
12 were talking to, the common theme for that group would be what?

13 A. Violent jihad.

14 Q. When you were chatting online, not e-mail or this Paltalk
15 thing, did you ever encrypt your chats?

16 A. Yes.

17 Q. Why?

18 A. We were afraid, you know, even though we weren't planning
19 violence but just talking about violent jihad, that it would
20 draw the government's interest.

21 Q. You said you weren't planning violence. Did you ever
22 discuss online or face to face with the defendant and any of
23 these other people you mentioned the possibility that you in
24 fact might make hijrah and end up, as you put it, in a theater?

25 A. Yes.

1 Q. What is Secway Simp?

2 A. It's an encryption program for MSN.

3 Q. Is that a program you put on your computer for when you
4 chat?

5 A. Yes.

6 Q. If you wanted to chat with me using Secway Simp and I had
7 a copy as well, how would we be able to share communication and
8 be able to see it so it wasn't encrypted?

9 A. You have a key, so you offer to send that key, which kind
10 of translates the encryption so you can actually see the text
11 the person's typing.

12 Q. So if I didn't have your personal key, could I view what
13 you're typing in a chat?

14 A. No.

15 Q. You'd have to send me the key?

16 A. Yes.

17 Q. Did you share your key with Azdee?

18 A. Yes.

19 Q. With Syed Haris Ahmed?

20 A. Yes.

21 Q. With the defendant?

22 A. Yes.

23 Q. Presumably, you had to have their keys as well so you
24 could see their half?

25 A. Yes.

1 Q. Did you and the defendant and others that you were
2 corresponding with online ever use code or jargon for terms
3 that were sensitive you were worried about typing in?

4 A. Yes.

5 Q. Start with jihad.

6 A. You could type it with a G, you could say the word J, you
7 could say the word struggle.

8 Q. So in lieu of typing here are my thoughts about jihad, you
9 might just say the letter J?

10 A. Yeah.

11 Q. Or spell it G-ha --

12 A. Yeah.

13 Q. And pursuing jihad, the idea of actually getting involved
14 in a violent struggle against whoever the enemy is, was there a
15 shorthand or a code for that?

16 A. Yes.

17 Q. What would that be?

18 A. Could you repeat? You said a shorthand code for
19 struggling against?

20 Q. For actually pursuing jihad, someone says, Hey, let's go
21 do this?

22 A. You could say joining the caravan, the jihadi movement.

23 Q. Does "joining the caravan" have particular significance in
24 that phrase, in the violent jihadi circles that you're aware
25 of?

- 1 A. Yes.
- 2 Q. What is that?
- 3 A. There's a famous book with that name.
- 4 Q. Do you know who wrote the book?
- 5 A. Abdullah Azzam.
- 6 Q. That same A-z-z-a-m as the website?
- 7 A. Yes.
- 8 Q. Not the same person but the same word?
- 9 A. Yes.
- 10 Q. And put Abdullah Azzam in context with Afghanistan or
- 11 Iraq. Where does he fit?
- 12 A. He was one of the main leaders of the 1980s jihad against
- 13 the Russians.
- 14 Q. And is he connected with any particularly prominent
- 15 terrorists these days?
- 16 A. He was leading the jihadi movement, I guess, before Osama
- 17 bin Laden.
- 18 Q. You talked about code or shorthand for jihad or pursuing
- 19 jihad. How about Iraq? Instead of typing Iraq, what might you
- 20 or some like-minded individual say?
- 21 A. You could say Two Rivers or just the word Rivers.
- 22 Q. And the significance of Two Rivers?
- 23 A. The Euphrates and the Mesopotamia River. Iraq has two
- 24 rivers.
- 25 Q. Okay. Afghanistan?

1 A. Land of Mountains.

2 Q. Mountains?

3 A. Yeah.

4 Q. The Taliban?

5 A. Students.

6 Q. Students. What does Taliban mean if you translate it into
7 English?

8 A. Students.

9 Q. Finally, the United States, rather than saying America or
10 United States, what might you or someone you're chatting with
11 say?

12 A. I've seen people say like Land of the Pharaoh.

13 Q. Pharaoh, as in the Egyptian ruler?

14 A. Yeah.

15 Q. Okay. I want to turn back real briefly, you mentioned
16 paintballing a little while ago. How many times did you go
17 paintballing with the defendant?

18 A. Maybe three times, three or four times.

19 Q. Three or four times. Did Syed Haris Ahmed ever join you?

20 A. Yes.

21 Q. Did you and the defendant and Syed Haris Ahmed, if he was
22 in on the conversation, ever talk about steps you could take
23 here in the United States to begin to prepare to make hijrah,
24 to join the caravan?

25 A. We felt if we went to the woods that might help us, going

1 to the woods, running through them, doing pushups, or
2 practicing our paintball might help us.

3 Q. Getting physically fit?

4 A. Yeah.

5 Q. Did you and the defendant, and if Syed Haris Ahmed was
6 present, did he also discuss that that was one reason to go
7 shoot paintballs in the woods?

8 A. That was one of the reasons, yes.

9 Q. There may have been several, but the point I'm trying to
10 make is was this just in your head, Mr. Kamal is thinking, Hey,
11 if I get fit that will help me with hijrah, or is it something
12 you actually openly discussed with the defendant?

13 A. We did discuss it and we discussed other purposes of those
14 trips as well.

15 Q. You said you did discuss it?

16 A. Yeah, we did.

17 Q. Okay. You weren't trying out for the Georgia State track
18 team or paintball team?

19 A. No.

20 Q. Did you and the defendant ever discuss possible
21 destinations -- I've already asked you what theater you might
22 go to -- possible destinations where one might actually be able
23 to provide support, material support for violent jihad?

24 A. All the destinations I mentioned were possibilities.

25 Q. I want to touch on a couple of them. Did you and the

1 defendant ever talk about the possibility of somehow helping
2 the Taliban?

3 A. Yes.

4 Q. What about LeT, do you know what LeT is?

5 A. Yes.

6 Q. What does that stand for?

7 A. Lashkar-e-Tayyiba.

8 Q. Lashkar-e-Tayyiba, is that an organization that you and
9 the defendant ever discussed?

10 A. Yes.

11 Q. Their conflict, their focus is generally, back in, stay
12 focused on 2004, 2005, where was their focus?

13 A. Kashmir.

14 Q. Kashmir, which is where?

15 A. It's a border region between India and Pakistan.

16 Q. Is it a contested territory?

17 A. Yes.

18 Q. Pakistan-India contested?

19 A. Yes.

20 Q. What is that LeT wants with Kashmir, as you understand?

21 A. They want it to be under Pakistani rule.

22 THE COURT: Mr. McBurney, the court reporter needs to
23 change paper.

24 MR. MCBURNEY: Sure.

25 THE COURT: I do want the opportunity to take a

1 mid-morning break. How much longer do you have?

2 MR. MCBURNEY: Probably have about -- we could do it
3 right now, I have enough that there will be a little bit after
4 the break. I won't finish in time for a break.

5 THE COURT: I told you that the day would have two
6 breaks, mid-morning, mid-afternoon, I think those are
7 appropriate times to break. I'd like to take our mid-morning
8 break now.

9 Please don't discuss the case amongst yourselves or
10 with anybody else. We'll be in recess for 15 minutes.

11 (Jury retired from the courtroom at 11:10 a.m.)

12 THE COURT: The jury has left the courtroom.

13 Was there something, Mr. McBurney, that you wanted to
14 take up at the break?

15 MR. MCBURNEY: Yes, sir. With the charge, Judge, you
16 had said that the defendant's statements are not to be
17 considered evidence.

18 I addressed it in opening, I don't know that -- I
19 think it's clear now. My concern was the defendant may well
20 make statements if he testifies and there will be many, many
21 statements he made that are in the exhibits that will be
22 admitted. But your language was very clear that nothing he
23 says, his statements are not to be considered evidence.

24 And on the off chance that some jurors say, The judge
25 says his statements are not evidence, I wanted it to be clear

1 to them that the statements he makes as he represents himself
2 are not evidence.

3 I made that point in opening but I'm not the judge,
4 so I would ask that at the appropriate time but before we start
5 getting into chats that have many, many statements by the
6 defendant, that the Court clear up which types of statements it
7 was referring to.

8 THE COURT: I read what I had written. I don't
9 recall saying that. I will look at the transcript.

10 MR. MCBURNEY: Okay. We all noted it when you said
11 that -- you said his opening and closing, you said any
12 statements of the defendant are not to be considered evidence.
13 That's what I heard. You can check the charge and if you don't
14 think it's confusing, then it doesn't need to be cleared up,
15 but that was our concern.

16 THE COURT: I'll look at that, but the purpose was
17 anything he said, any statements he made in his opening or his
18 closing are not evidence, but I'll look at it.

19 Amanda, if you could find, print out my preliminary
20 instruction, I'll review that.

21 MR. MCBURNEY: The one other matter, it's a
22 scheduling matter. Defendant Ahmed is here today, the marshals
23 brought him over, and we need to take care of whatever is going
24 to happen. Mr. Martin is here and so we could, when we break
25 for lunch, call him and he can make his decision. But we want

1 to take care of that today, not inconvenience the jury and not
2 inconvenience the marshals with a second trip if we don't do it
3 today.

4 THE COURT: I'd suggest we do that after, when we
5 take our lunchtime break, do it at the beginning of the
6 lunchtime break. Is that acceptable to everybody? Acceptable
7 to you?

8 MR. MARTIN: You said before lunch or after?

9 THE COURT: As soon as we break, we'll do it at the
10 very beginning of the break.

11 MR. MCBURNEY: That's all.

12 THE COURT: All right, we'll be in recess for 15
13 minutes.

14 (Recess, 11:13 a.m. to 11:32 a.m.; jury not present.)

15 THE COURT: Anything we need to go over before we
16 continue?

17 MR. MCBURNEY: One logistical issue, Judge. We
18 talked with Ms. Birnbaum and the defense. We have an exhibit
19 that will evolve as people give -- testify as to monikers of
20 individuals. We want the jury -- it's a demonstrative aid that
21 isn't complete because we don't have testimony as to each
22 moniker. We're trying to find the best place to put it so that
23 the parties don't need to walk past this line. So we're
24 suggesting right here. The defense didn't object.

25 THE COURT: Any objection? Is there any objection to

1 placing this here?

2 MR. SADEQUEE: No objection.

3 THE COURT: All right. Anything else?

4 MR. MCBURNEY: That's it.

5 THE COURT: Let's bring the jury back in, please.

6 (Jury returned to the courtroom.)

7 THE COURT: Ladies and gentlemen, Mr. Kamal is still
8 on direct examination.

9 Please continue.

10 MR. MCBURNEY: Thank you, Judge.

11 Q. (By Mr. McBurney) Mr. Kamal, before we pick up where we
12 left off discussing some of the possible destinations, I want
13 to return to the question of monikers, online names.
14 Government's Exhibit 1 is a demonstrative aid over here. Can
15 you see it?

16 A. Yeah.

17 Q. You had mentioned Aboo Khubayb Al-Muwahhid as being an
18 online moniker for the defendant?

19 A. Yes.

20 Q. Is this the same moniker, is this how you spell it?

21 A. Yes.

22 Q. You also had mentioned Al-Muwahhid and Sadshifa. Do you
23 see those on here?

24 A. Yes.

25 Q. Page 2 is the -- meant to be the monikers you shared with

1 us, Falook, Abu Hurayrah, Al-Hindee and then Omer Kamal, your
2 e-mail addresses, are these the three you mentioned?

3 A. Yes.

4 Q. And finally, page 3 of Government's Exhibit 1,
5 demonstrative exhibit, the monikers you shared that belonged to
6 Syed Haris Ahmed, Turaab, Aboo Turaab, Aboo Turaab al-Qurashee
7 and then Thandy Mazaq?

8 A. Yes.

9 Q. Those are the same?

10 A. Yes.

11 Q. Thank you. We have been talking about possible
12 destinations that were discussed. One was going to make this
13 hijrah, the migration, and actually do something in a
14 battlefield, provide some support to violent jihad. You
15 mentioned the Taliban and Afghanistan and we started talking
16 about LeT and their struggle, their armed struggle in Kashmir.
17 Is LeT actually an army? Are they wearing uniforms, or is this
18 a terrorist organization?

19 A. Paramilitary terrorist organization.

20 Q. They have the flag of Pakistan on the sleeves of their
21 uniforms?

22 A. I don't know.

23 Q. So you're not that familiar with it. Did you and
24 Defendant Sadequee ever discuss LeT as an organization?

25 A. Yes.

1 Q. Did you and he discuss the types of attacks they made back
2 in '03, '04, '05 on Indian interests or wherever it was they
3 were attacking?

4 A. Yes.

5 Q. What types of attacks were those?

6 A. Generally they would attack military outposts, send in a
7 few guys and attack it with weapons and then when they were
8 done go back to their base.

9 Q. Okay. Are we describing a fully-formed army or what you
10 call an irregular militia that would be making these attacks on
11 the Indian army?

12 A. Irregular militia.

13 Q. Did the defendant ever criticize, in discussions with you,
14 LeT in terms of the breadth of its aims?

15 A. He had mentioned that himself and other people felt that
16 they shouldn't be trying to give Kashmir to the Pakistani army
17 or to the Pakistan government, they shouldn't have a close
18 relationship with the Pakistani government.

19 Q. And what was the problem with the Pakistani government?

20 A. It was viewed as a sellout government.

21 Q. What do you mean by "sellout government"?

22 A. It was too closely tied with America.

23 Q. Did you and the defendant and others ever discuss possibly
24 going to Two Rivers or Iraq?

25 A. Yes.

1 Q. Did you and the defendant ever discuss what targets might
2 make sense for violent jihadists here in the United States?

3 A. Yes.

4 Q. What did you talk about?

5 A. We said that if, not ourselves, but if others attacked the
6 White House or the Capitol building it would have sent a strong
7 message to the U.S. and force it to change its policies.

8 Q. Not yourselves, not you or the defendant, but others, that
9 would send a message?

10 A. (Nods head.)

11 Q. Did you and the defendant ever discuss targets associated
12 with the United States, maybe not within the United States
13 proper, that you would be willing to strike if called upon?

14 A. We did discuss Abu Ghraib or Guantanamo Bay.

15 Q. Abu Ghraib, the military prison in Iraq?

16 A. Yes.

17 Q. And Guantanamo where detainees are held?

18 A. Yes.

19 Q. At some point after you got to know the defendant and did
20 the paintballing and get online with him and share videos,
21 et cetera, were you invited to go on a trip with the defendant
22 to meet with other like-minded supporters of violent jihad?

23 A. Yes.

24 Q. Where was it that the defendant was going?

25 A. Canada.

1 Q. Who was he going to meet with in Canada?

2 A. Azdee.

3 Q. Did Azdee also invite you?

4 A. Yes.

5 Q. How about Syed Haris Ahmed, was he to go on this trip?

6 A. Yes.

7 Q. If you recall, what month and year was the trip?

8 A. Well, they started talking about it in January and they
9 had asked me a few times but I didn't -- I didn't know
10 beforehand when they actually went.

11 Q. Okay, you learned after the fact?

12 A. Yes.

13 Q. Did you go with them?

14 A. No.

15 Q. Did you ever have to explain yourself to the defendant as
16 to why you wouldn't join them on this trip to Canada?

17 A. When they first asked me I said, you know, I was busy with
18 school and other things. And they didn't make such a big deal
19 of it at that time. They just put a little pressure but not
20 much.

21 Q. At some later time did they, to use your words, make more
22 of a big deal out of it?

23 A. When they returned, yeah.

24 Q. We'll talk about that in a second. Did you in fact have
25 conflicts with school that made it unable for you to go?

1 A. Yes. And I also wasn't interested at that time really to
2 go to Canada with them.

3 Q. You say you weren't interested. What did the defendant
4 tell you he hoped to do in going to Canada?

5 A. He hoped to meet with Azdee and any of the other people in
6 Canada who were up there, to at least get to meet them face to
7 face so they at least know these people at a much better level.
8 And if they ever made hijrah and moved overseas, if those guys
9 also were there, they had someone that they trusted that they
10 actually knew.

11 Q. This is something the defendant told you was the purpose
12 of the trip before he made the trip?

13 A. He told me that he wanted to meet them and at least get a
14 better understanding of who they are. I assumed the latter
15 part in this because we talked about making hijrah with them
16 and it wasn't clearly said that, you know, if we're going to
17 meet them and then we're going to go and move, but it would
18 help.

19 Q. Well, try to confine your answers to what you recall the
20 defendant saying as opposed to what you assumed he meant,
21 unless I ask that. I probably won't.

22 A. Okay.

23 Q. At some point the defendant and Syed Haris Ahmed returned
24 and you said that was when they were more frustrated or annoyed
25 that you hadn't come along?

1 A. Yes.

2 Q. Describe for the jurors what happened.

3 A. Basically they were like, you know, you should have came
4 with us. And at that time I wasn't able to hang out with them
5 as much and so I think that irritated them and --

6 Q. What prevented you from hanging out with them?

7 A. I was busy. And also at that time we had conflicts,
8 weren't seeing eye to eye. They felt that I was becoming soft
9 or not as dedicated to these views that were on these websites.
10 And basically he was mad that I didn't go with them to the trip
11 to Canada.

12 Q. What type of conflicts were you having?

13 A. You know, if they called me and they wanted me to meet
14 them, you know, at his house or someplace, I wouldn't make it
15 or I'd sound busy. And they were basically, like, you know,
16 you need to get your priorities more straight.

17 Q. And you say these types of views on these websites. What
18 specifically were they telling you you were not sufficiently
19 committed to?

20 A. Moving away from the United States, moving to a Muslim
21 land.

22 Q. To do what?

23 A. Either to live there or if -- they also felt that the war
24 on terror was going to expand all over the Muslim world and so
25 basically we were on the wrong side of the planet and -- or if

1 we wanted to enter a theater of combat, we couldn't do that
2 from the U.S.

3 Q. Did the defendant ever tell you after he returned from
4 Canada with whom he met?

5 A. He did confirm that he met with Azdee and Aboo Sulaymaan.

6 Q. Aboo Sulaymaan was the Somali in Canada that you
7 described?

8 A. Yes.

9 Q. And what did the defendant tell you that he and they and
10 Syed Haris Ahmed talked about while they were up there?

11 A. Basically, you know, it's time for us to move away from
12 the U.S., things are getting worse here and we're just wasting
13 our time in the U.S. and so it's time for us to move.

14 And he also discussed that he was already going to
15 move back to Bangladesh and get married. And he also felt
16 that, you know, the war on terror might expand to Bangladesh
17 and it's better to be there than here and he'll be prepared if
18 he's there.

19 Q. So the defendant was talking about going back to
20 Bangladesh. Was Syed Haris Ahmed making similar noises about
21 going to the greater Middle East somewhere?

22 A. Either Pakistan, they also said, you know, you could end
23 up in Iraq or some other, Palestine, but most likely he was
24 going to go back to Pakistan because he's from there.

25 Q. You mentioned that after the trip the defendant and Syed

1 Haris Ahmed began to pressure you more. They had already been
2 to Canada. What were they now pressuring you to do? Was there
3 a trip coming --

4 A. They said they were most likely going to try to move
5 overseas by the end of the summer.

6 Q. Did you agree to go with them overseas?

7 A. No.

8 Q. Did they ever give you the specifics as to when they were
9 leaving?

10 A. They just told me summer and they kept telling me give
11 them an answer within like two or three weeks.

12 Q. Did you ever end up giving them an answer?

13 A. Yes.

14 Q. What was the answer, first, in essence? Yes, no, maybe?

15 A. The answer was no, go on without me.

16 Q. How did you deliver that message to the defendant and Syed
17 Haris Ahmed?

18 A. I typed up a note on Notepad and I slid it under the door
19 of Sami Ayoub's door.

20 Q. Who is Sami Ayoub?

21 A. He was a store owner and Haris used to work for him.

22 Q. What kind of store?

23 A. Perfumery.

24 Q. Did you, the defendant, and Syed Haris Ahmed have any
25 other connection to Sami Ayoub?

1 A. Sometimes we attended his Friday sermons.

2 Q. So he ran a perfume store and also gave sermons?

3 A. Yeah.

4 Q. In a mosque or --

5 A. College, southern Polytech.

6 Q. But his sermons were about Islam or were they Methodist
7 sermons?

8 A. About Islam.

9 Q. You mentioned that you typed up the note on Notepad.

10 A. Yeah.

11 Q. Not Microsoft Word. What's Notepad?

12 A. It's a very basic text editor that comes standard on
13 Windows, Microsoft Windows.

14 Q. Did you have no other word processor?

15 A. That was the first thing that came to mind. It was easy
16 to type up with.

17 Q. Did you put the note in an envelope?

18 A. Yes.

19 Q. What did you write on the envelope?

20 A. I told them basically go on without me and, you know, I
21 felt that, you know, we're under government surveillance and,
22 you know, just forgive me for whatever falling out we've had
23 and just go on with their lives.

24 Q. Okay, that's what was in the note. My question was did
25 you write anything on this envelope that you slid under the

1 door?

2 A. Oh, I addressed it to them, yes.

3 Q. Would you take a look at Government's Exhibit 20. It
4 should be in front of you. Do you recognize that?

5 A. Yeah.

6 Q. It actually should be two different things. What is
7 the -- the part of Government's Exhibit 20 that has a sticker
8 on it, what's that?

9 A. The envelope.

10 Q. That you wrote?

11 A. Yeah.

12 Q. Is that your handwriting on it?

13 A. Yes.

14 Q. And what's inside the envelope?

15 A. The letter that I typed up to them.

16 MR. MCBURNEY: Government tenders Exhibit 20.

17 THE COURT: Any objection?

18 MR. SADEQUEE: No objection.

19 THE COURT: It's admitted.

20 MR. MCBURNEY: Can we click 20 up? Okay.

21 Q. (By Mr. McBurney) Is that, the text we see on the screen
22 there, is that your handwriting?

23 A. Yes.

24 Q. Is that what you wrote on the outside of the envelope
25 that's in front of you, Government's Exhibit 20?

- 1 A. Yes.
- 2 Q. I-h-s-a-n, who's that?
- 3 A. That's Shifa.
- 4 Q. That's just how you spelled the short version of his first
5 name?
- 6 A. Yeah, I never had to type his real name.
- 7 Q. And then the Harith?
- 8 A. That's Haris, yeah.
- 9 Q. Can we look at the second page, please? Now, before we
10 get into the text, it's all jagged. Did you do that?
- 11 A. I don't remember. I just ripped it. I probably just
12 ripped the sheet up and put it in an envelope.
- 13 Q. What's on the screen, the text of the letter that you
14 typed up to the defendant and Syed Haris Ahmed?
- 15 A. Basically it's just me saying, okay --
- 16 Q. I'm sorry, you don't need to read it. Is that the note
17 you wrote?
- 18 A. Yes.
- 19 Q. There's a standard Muslim greeting?
- 20 A. Yes.
- 21 Q. The first sentence you write is: "Go on ahead without
22 me." What are you referring to?
- 23 A. Their plans to move overseas.
- 24 Q. So this isn't the Canada trip; this is the hijrah?
- 25 A. Yes.

1 Q. "Please forgive me for any personal wrong in my behavior."

2 What are you referring to there?

3 A. Our arguments that we had for the past, like, two or three
4 months between us.

5 Q. The conflicts you mentioned?

6 A. Yes.

7 Q. Had your views as to the pursuit of violent jihad begun to
8 diverge from theirs?

9 A. I wasn't as committed to it as what -- as theirs at the
10 time.

11 Q. "It is not best to talk about this topic on my phone,
12 because my phone line has a lot of eyes on it." What are you
13 talking about?

14 A. I thought the government was -- had me under surveillance.

15 Q. Okay. "I also intended to lay low so as to avoid too much
16 connection between me and you all, in case they come to ask me
17 about it." What's the "it"?

18 A. When they go overseas. I was afraid that, you know, if
19 they went overseas and the government might become suspicious
20 about it, so that's why I --

21 Q. So if you hadn't had contact with them you wouldn't have
22 much to say?

23 A. Yeah.

24 Q. Okay. Did you attempt to convey this same message that
25 you're not going to join them going abroad through some other

1 medium, online or otherwise?

2 A. Yes.

3 Q. Can you look at Government's Exhibit 34? Do you recognize
4 Government's Exhibit 34?

5 A. Yes.

6 Q. What is that? Without going into the content, generically
7 or generally, what is that?

8 A. It's a private message I sent.

9 Q. Through what?

10 A. Tibyan forums.

11 Q. What's a private message?

12 A. It's like if you're on a forum, it's like an e-mail sort
13 of thing that works within the forums. It only goes to other
14 message board members.

15 Q. And Government's Exhibit 34 contains the message that you
16 wrote, and does it have correspondence from anyone else as
17 well?

18 A. Yes.

19 Q. Who else?

20 A. It has a response from Shifa and Haris.

21 MR. MCBURNEY: Government tenders Exhibit 34.

22 THE COURT: Any objection?

23 MR. SADEQUEE: No objection.

24 THE COURT: It's admitted.

25 MR. MCBURNEY: If we can publish the first page of

1 34.

2 Q. (By Mr. McBurney) And just if we could, before we magnify
3 anything, there's a picture at the top of some books with guns
4 over them and pen, it says At-Tibyan. Is this what Tibyan
5 Publications looked like --

6 A. Yes.

7 Q. -- in the spring of '05 if you logged on?

8 A. Yes.

9 MR. MCBURNEY: If you could magnify the box down
10 here, basically the text of the various messages, please.

11 Q. (By Mr. McBurney) Okay, let's start with the original
12 message. Who is Aboo Hurayrah al-Hindee?

13 A. That's me.

14 Q. What is it that you wrote?

15 A. "Go ahead without me."

16 Q. What are you referring to? Go where without you?

17 A. Their trip overseas.

18 Q. Then you -- somehow apparently it got to Aboo Khubayb
19 al-Muwahhid. Who is that?

20 A. Shifa.

21 Q. The defendant, and what does he write about your message,
22 "Go ahead without me"?

23 A. Do you want me to read it?

24 Q. Read it, please.

25 A. He said: "This is how your friend replied today, may

1 Allah not let him die except in a state when the angels are
2 smiting his face and back."

3 Q. So the defendant is referring to you?

4 A. Yeah.

5 Q. And he says: "May Allah not let him die except in a state
6 when the angels are smiting his face and back."

7 Does that have particular significance in connection
8 with the Quran or something?

9 A. It's talking about people who don't make hijrah but also
10 within a certain context. So basically he's insulting me.

11 Q. He's saying not a nice thing?

12 A. Yeah.

13 Q. So you sent it, defendant got it, and then he apparently
14 has sent it to Abu Turab. Who is that?

15 A. Haris.

16 Q. And Syed Haris Ahmed says, in response to reading your
17 message that the defendant sent him, says what?

18 A. "Just speechless... I guess knowledge without taqwa is
19 really useless...may Allah save us from not acting upon
20 knowledge."

21 Q. Taqwa, was is that?

22 A. Like piety, fear of God.

23 Q. After you delivered your message through these two
24 channels, the note, Exhibit 20, and the private message,
25 Exhibit 34, did the defendant and Syed Haris Ahmed continue to

1 try to contact you?

2 A. Haris would try to call me continuously.

3 Q. Did you take his calls?

4 A. No.

5 Q. Did you drop off the forums you had been going to, like
6 Tibyan Publications?

7 A. Yes.

8 Q. Did you change your e-mail address or stop using it?

9 A. Yeah, I stopped using it.

10 Q. After you delivered the two messages, did you have any
11 other contact with either the defendant or Syed Haris Ahmed?

12 A. No.

13 Q. Did you ever end up going to Canada to meet Azdee?

14 A. No.

15 Q. Did you ever take a trip outside of Atlanta to meet with
16 any other like-minded individual that you met online through
17 Tibyan or Clear Guidance?

18 A. No.

19 Q. Did you ever travel to Pakistan or Bangladesh or anywhere
20 else to make hijrah and further pursue violent jihad?

21 A. No.

22 MR. MCBURNEY: Thank you.

23 THE COURT: All right, Mr. Sadequee?

24 CROSS-EXAMINATION

25 BY MR. SADEQUEE:

1 Q. (Speaking foreign language.)

2 A. (Speaking foreign language.)

3 Q. Just a few. The government asked you, repeatedly they
4 used the word "discussed." Did we discuss this, did we discuss
5 that, such as did we discuss going to hijrah, going, moving
6 overseas.

7 Was it, the discussion, I want you to define in more
8 precise terms, was it planning or was it like I think we should
9 do, we should move over to Pakistan or we should do this, and
10 nothing further than that, our discussions? How -- can you
11 clarify, elucidate for us the nature of our discussions and to
12 what degree of detail or --

13 A. We didn't have the fine details in our discussions. We
14 did talk about it. We made general plans but there was no
15 detailed discussion like, I'm going to buy a plane ticket on
16 this day, so-and-so is going to pick me up. We didn't have the
17 final -- we didn't have final logistics. It wasn't like we
18 could go the next day with our discussions.

19 Q. Did we -- so there was discussions, let's say, about going
20 to Pakistan, right?

21 A. Yes.

22 Q. Did you -- you're a Pakistani citizen? No?

23 A. No.

24 Q. No. Did you ever research visas to move to go to
25 Pakistan? Because you do not need a visa, you --

1 A. No.

2 Q. So you never researched online even about --

3 A. I didn't think it would be difficult to get a visa but,
4 no, I never researched it.

5 Q. So would you say that demonstrates a level of -- it shows
6 the intensity of your seriousness when you say you're going to
7 Pakistan, I'm going to go to Pakistan or you're going to go to
8 Pakistan, someone is going to go to Pakistan, that you don't
9 even research, forget getting a visa, you did not even ever
10 research getting a visa, so you must not have been serious at
11 all; am I correct?

12 A. We had a desire and intention to go, but, no, we did
13 not -- well, I did not research a visa.

14 Q. A desire?

15 A. Yeah.

16 Q. What's "desire" mean? You would like one day perhaps, it
17 would be cool; is that what it means to you?

18 A. It means that we did want to go. We --

19 Q. What is --

20 A. It wasn't like farfetched desire.

21 MR. MCBURNEY: I'm going to interpose an objection,
22 we just need to get the dynamic down. Defendant needs to not
23 interrupt the witness's answer.

24 THE COURT: I'll take care of that.

25 THE WITNESS: We had a strong desire to go, yes. I

1 wouldn't say that we -- it wasn't like one day, like ten years
2 from now, we did feel that, okay, we are going to go; but, no,
3 we did not make those final logistics with regards to that
4 trip.

5 Q. (By Mr. Sadequee) So, and you never bought any plane
6 ticket --

7 A. No.

8 Q. -- to go to Afghanistan or --

9 A. No.

10 Q. -- Pakistan? Did you ever research plane ticket prices?

11 A. To Afghanistan?

12 Q. Or Pakistan.

13 A. No.

14 Q. Off the top of your head, do you know what a price of a
15 plane ticket to Pakistan or Afghanistan would be?

16 A. Pakistan, I would imagine around 2,000.

17 Q. And what's the basis of your knowledge for that? Because
18 you did research on it or because you know family or relatives
19 or --

20 A. Well, for Pakistan I had no relatives so --

21 Q. So you never did research with regards to your intention
22 or your desire, as you phrase it, that you want to make hijrah?

23 A. No, I didn't.

24 Q. So it was not in relation to that. The source of your
25 knowledge is --

1 A. Outside of the research, yes.

2 Q. Okay. So you never bought plane tickets to go there, you
3 never researched plane tickets or flight to go there, you never
4 bought or you never got a visa to go to Pakistan or India, you
5 never researched about getting a visa?

6 A. That's all correct.

7 Q. Did you ever visit the Pakistani embassy website or the
8 Indian embassy website --

9 A. No.

10 Q. -- with regards to --

11 A. No.

12 Q. But you talked about it with us?

13 A. Yes.

14 Q. That you want to do that?

15 A. Yes.

16 Q. But you were capable -- you have Internet connection, I
17 believe?

18 A. Yes.

19 Q. So you were capable of doing research for this -- not
20 research, I'm talking about Googling and perhaps --

21 A. Yeah, I was capable of doing a --

22 Q. You were --

23 A. -- search.

24 Q. -- capable --

25 THE COURT: Mr. Sadequee, you do have to let him

1 finish his answer before you ask the next question because the
2 court reporter can't take down two simultaneous comments. So
3 give him a chance to answer before you follow up. So go ahead.

4 Q. (By Mr. Sadequee) So would it be correct if I were to say
5 you have the capacity of doing -- taking those steps, yet you
6 were not taking those steps?

7 A. We had discussions but I did not take steps for the final
8 logistics, that's correct.

9 Q. So would it -- so would you agree if a conclusion was made
10 that there's these discussions between yourself, myself, and my
11 co-defendant Haris, about going certain places, hijrah,
12 overseas and -- or Iraq, as was also mentioned, and we had the
13 capacity to do certain research and yet we -- when someone says
14 he's going to do something and he has the capacity to do that,
15 yet he does not do that, would it be a logical conclusion that
16 he's not serious in doing that if he has the capacity?

17 A. I don't know because that depends on time. At the time of
18 our discussions we felt strongly that we should do that but
19 that's hard to say yes or no because it depends on time.

20 Q. What do you mean when you're saying -- I'm going to focus
21 on this term you said, "we felt strongly." You mean
22 religiously and emotionally?

23 A. Yes.

24 Q. We felt strongly about our opinions and our beliefs?

25 A. Yes.

1 Q. And about what's happening in the world today?

2 A. Yes.

3 Q. So this is synonymous with your desire that you mentioned,
4 that we had a desire?

5 A. Yes.

6 Q. We felt strongly?

7 A. Yes.

8 Q. And we had discussions on these issues but none of us --
9 you can only speak for yourself. You never researched --

10 A. No.

11 Q. -- about what you just mentioned? Okay.

12 Another thing that I want to ask you about is after
13 we came back from Toronto, me and Haris mentioned to you, if
14 you can recall, about going to Iraq. And do you also recall
15 that once in the Atlanta mosque, Al-Farooq, I had a
16 conversation with you, I told you I'm going to Iraq next week
17 or something to that effect?

18 A. You told me that you guys were going back. When you guys
19 first came back you mentioned, you did mention Iraq. But at
20 the most part you guys were talking about hijrah, going back to
21 either Bangladesh, Pakistan, the Muslim world. When you saw me
22 again at the 14th Street Mosque you were mad that I cut myself
23 off from you guys. You didn't say that I'm going to Iraq next
24 week, but you did say, "I want an answer in two weeks about
25 hijrah."

1 Q. I think you're confusing. There were two specific
2 meetings that we had after coming back from Toronto. One was
3 me and Haris and you, we were in the truck. That's when they
4 have, government has --

5 A. Yeah.

6 Q. -- the police report and the police stopped us.

7 A. Yes.

8 Q. Then there was another one which was -- do you recall the
9 date?

10 A. Which one?

11 Q. Outside the mosque.

12 A. It was in summer.

13 Q. It was in, I believe it was, I think, July or August, yes,
14 and it was only me and you?

15 A. Yes.

16 Q. It was not Haris, okay. Can you recall, to the best of
17 your memory, what I mentioned -- so you don't recall Iraq being
18 mentioned?

19 A. I don't recall Iraq being mentioned. I remember in the
20 first meeting you mentioned Iraq. But when I came to that
21 meeting I didn't eat breakfast that day, so we had a short
22 meeting, it was like ten minutes. And then, because I didn't
23 eat breakfast, I passed out because it was like in the middle
24 -- right in the middle of the sun.

25 Q. You mentioned you believed, in the letter, the letter

1 under Sami Ayoub's door --

2 A. Yes.

3 Q. Why would you believe that you were under surveillance?

4 A. Because I was like MSA president and like I heard my phone
5 clicking and we were talking about these things, so I figured
6 that would put us under government surveillance.

7 Q. But you weren't? Did you --

8 A. I have no idea.

9 Q. Now, can you mention -- we used to watch a lot of these
10 jihadi videos, right?

11 A. Yes.

12 Q. Can you mention -- a nasheed, what's a nasheed?

13 A. It's an Islamic song.

14 Q. What type of an impact did those videos and songs have?

15 A. They make you like pumped up. They make you -- I mean,
16 they're recruitment videos, so they make you pumped up. That's
17 what they're designed for, to make you want to go there, to --

18 Q. So after --

19 A. -- combat.

20 Q. Can you just elaborate on that a little bit? So it
21 affects you emotionally, correct?

22 A. That is correct.

23 Q. If someone watches the video?

24 A. That is correct.

25 Q. State of the umma, for example?

1 A. That's correct.

2 Q. It pumps you up and also it affects you emotionally. So
3 after watching any of these videos, right, or know of these
4 videos, is it -- would it be accurate to say -- also the
5 nasheeds, and the videos are full of nasheeds, excuse me, so
6 you have the videos and the nasheeds -- would it be accurate to
7 say that a lot of things can be said in the heat of that, being
8 pumped up?

9 A. It's possible things can be said just in that context in
10 the --

11 Q. Which would --

12 A. -- heat of the moment and it's possible you could say
13 those things in the heat of the moment. I mean, both are
14 possible.

15 Q. So you are -- in our hyper situation, did we say a lot of
16 things or did you say things that after watching any of these
17 videos which you would then later on, let's say, when you go
18 back home or you go back to work or school or whatever, you,
19 you know, you're kind of like -- it's like a different state of
20 mind where --

21 A. I mean, you might say some things that you meant when
22 you're watching those videos and there's some things you might
23 have said that you may have not meant, if given time. Again,
24 both are possible.

25 Q. But did you in fact ever say things which later on you

1 would say that I wasn't serious or you weren't serious?

2 A. I mean, for myself, yeah, I can vouch for that. I mean,
3 as evidence, I used to be more into this type of ideology and
4 later on I left it. So for myself I can definitely vouch for
5 that.

6 Q. About the code, what -- why would we refer to the U.S. as
7 Pharaoh Land?

8 A. Because we felt it was oppressive like Pharaoh.

9 Q. Does it have more of a Quranic significance to it?

10 A. Because Prophet Moses, his main opponent was the Pharaoh.

11 Q. And could you elaborate on how it's the U.S. -- the U.S.
12 is -- to us signifies --

13 A. Well, we felt at the time that a lot of the foreign policy
14 wasn't fair towards Muslims. We felt -- we didn't agree with
15 them invading Afghanistan and then Iraq. And then we saw the
16 Patriot Act and with Guantanamo we felt that they were, you
17 know, arresting people without reason and mistreating people in
18 Abu Ghraib.

19 So that was one of the reasons we used the term
20 "Pharaoh," because we felt it was the most powerful nation on
21 earth, just like Pharaoh was at that time, during Moses's time.

22 Q. Do we -- do you recall one of the first meetings the three
23 of us had, you and I and Haris, in Georgia Tech, we had
24 conversations regarding -- well, before I get into that let me
25 ask about Tibyan Publications. When was -- what was my

1 relationship with Tibyan Publications, to your knowledge?

2 A. You were a moderator. You posted on there. You assisted
3 in some of their publications in, I guess, translating.

4 Q. Well, in the online jihadi cyber community, what would you
5 characterize -- what role does Tibyan Publications play, to
6 your knowledge?

7 A. What do you mean?

8 Q. What is Tibyan -- what does Tibyan --

9 A. It's like propaganda for that type of view, basically.
10 It's a place to discuss that type of view, to encourage people
11 to adopt that type of view.

12 Q. If I may ask, you mentioned that you left that temple,
13 that ideology?

14 A. Yeah.

15 Q. So what ideology do you currently --

16 A. Mainstream Islam.

17 Q. Huh?

18 A. Mainstream Islam. But I don't see how that's relevant.

19 Q. Do you remember any conversations we had about the
20 Freemasons?

21 A. I -- only thing I remember is you just saying that the
22 U.S. dollar would have meant like the eagle and the arrows and
23 all that kind of stuff.

24 Q. And the ancient Egyptians?

25 A. Yeah, and how it's connected to the Freemasons.

1 Q. Do you know -- for example, we took videos of the
2 Freemasons. Do you know of any reason as to why we would have
3 taken --

4 A. I don't know why you guys would have taken those videos.

5 Q. Did we ever discuss about the United States, one of the
6 reasons why Muslims would not like the United States is that
7 the U.S. is trying to establish a New World Order for the
8 Antichrist?

9 A. Yeah, that's probably one of the reasons.

10 Q. We discussed this?

11 A. I saw it on the forums. I can't remember if we discussed
12 it face to face, but that was on the forums.

13 Q. On postings? Did I post any of that material?

14 A. I can't recall if you posted it.

15 Q. Do you recall anything --

16 A. I remember you talking about a dollar bill and how that
17 relates to Freemasons and how they have strong influence over
18 the U.S.

19 Q. When we speak, right, or when we're conversating online,
20 these codes that we use, how do you make up these codes? One
21 of the codes, for example, the government referred to, is
22 referring to Iraq as Land of Two Rivers. How does the Land of
23 Two Rivers mean Iraq?

24 A. Mr. McBurney asked me if -- the two rivers that are there.
25 And most of the insurgent groups there, they would refer to

1 Iraq as the Land of Two Rivers.

2 Q. Is it the Euphrates and --

3 A. Yeah.

4 Q. So by referring to an attribute of the actual thing, the
5 object that we want to refer to, which is Iraq, you would
6 instead refer to an attribute of the object, so that's the
7 code. So by referring to -- it's like a branch off of the
8 actual -- sorry. So would you say when we're making up -- when
9 these codes are -- when we were having these conversations, do
10 we make these codes up off the top of our heads sometimes, or
11 is it something that we're planning, that, you know, this is
12 the code for this, this is this, this is this, or when we are
13 just talking and when I want to say something or you want to
14 say something is it --

15 A. It can be both. Sometimes you can just tell in the
16 context what the person typed, what he meant. I'm sure we
17 discussed J for jihad, we should use that instead of referring
18 to it as that. But, for example, if I saw -- my first time I
19 saw Rivers I knew what it meant because of the videos and stuff
20 and the postings.

21 Q. Actually, it shouldn't be considered code because it's
22 very publicly well known, that's what it's referred to by
23 Al Qaeda, correct? Al Qaeda is not using a code on their
24 videos, are they? Because it's wide open.

25 A. Well, it was so Western people wouldn't know what we're

1 talking about. It doesn't take, probably, a lot of research
2 but I don't know. I can't answer.

3 Q. It's a very poor code, then?

4 A. It wasn't --

5 Q. My point is that would you agree that these codes are not
6 pre -- it is not planned? You're conversating with someone
7 and -- or I'm -- you're conversating and you just refer to
8 something in a bit different way than what it's usually termed
9 as?

10 A. I mean, I don't recall us having like a meeting for like,
11 okay, this is our code for everything. I do remember for jihad
12 that we said we should use J. But if a person didn't get what
13 the person was referring to, you'd probably ask for
14 clarification and then use something else to get at what
15 they're trying to talk about.

16 Q. J is, well, you have because it's the first letter of --

17 A. Yes, yes.

18 Q. How many languages do you speak?

19 A. I speak English. I write Arabic now and okay, so-so Urdu,
20 not very great at it.

21 Q. Urdu?

22 A. Yeah.

23 Q. Do you recall how many languages I speak?

24 A. English, Bengali, and you were decent at Arabic at the
25 time.

1 Q. Do you remember when your -- when you, Haris, and I used
2 to meet, the vast majority of our -- how would you characterize
3 the vast majority of our -- the nature of the vast majority of
4 our meetings? Not in terms of the subject matter but in terms
5 of the atmosphere of how we used to talk with each other in our
6 discussions.

7 A. What do you mean by atmosphere?

8 Q. Was it very serious or very paranoid or we were like
9 joking or was it like were we taking drugs, or what?

10 A. It varied.

11 Q. Lighthearted?

12 A. Many times lighthearted but there were a few times where
13 you'd be serious and say, you know, we need to make hijrah, we
14 need to take things -- you know, everything had its place, the
15 serious stuff, the nonserious stuff.

16 Q. My question was the vast majority of our discussions and
17 meetings, was it serious, the vast majority, or was the vast
18 majority -- and one more question. Okay, first answer that.

19 A. It wasn't like every meeting we had was like we had an
20 agenda, a professional meeting, we're going to cover X, Y and
21 Z, no, it was not serious, if that's what you mean by serious.

22 If you meant serious, you know, are we stern-faced
23 all the time, no, we were not stern-faced all -- most of the
24 time. But, yes, we had many lighthearted stuff because, you
25 know, we were much younger then. But there were times where

1 the meetings were serious too as well.

2 Q. Was there times -- and would you say that -- do you recall
3 making statements amongst us and criticizing ourselves of how
4 we're not serious and how we just joke around and just --

5 A. Yeah. I mean, we did say that and that's one reason why
6 we said we should take things seriously. But we did joke
7 around that we're not serious, that's true.

8 Q. Do you also recall us saying, because I recall saying
9 this, if I may paraphrase or quote to the best of my memory, do
10 you recall saying something like: When I'm by myself, meaning
11 yourself, when I'm by myself at home, you know, I'm reading,
12 studying and everything is serious, but when I come meet you
13 guys we just start cracking up?

14 A. When I first met you, yeah, we did have that dynamic.

15 Q. This was with Haris also. Do you recall any --

16 A. Yeah, I remember when I first started meeting you there
17 were times where we would just laugh at stupid stuff, yes, and
18 I thought, yeah, I laugh too much when I'm with you. With
19 Haris, yes, but I didn't see Haris as much as you.

20 Q. Do you ever recall -- because I didn't used to drive, you
21 had a driver's, learner's permit -- do you recall once we were
22 passing by an Ismaili mosque, saying this is a Shia mosque, we
23 should blow it up? Was it serious? What I'm trying to get at
24 is was there a serious plan? Were you planning on doing that
25 or was it just passing by, make a comment and then never think

1 about it, probably never thought about it ever?

2 A. I don't recall that but I did say negative things about
3 Ismaili center, we should go and take it over.

4 Q. Did you ever take it over?

5 A. No.

6 Q. Did you ever plan taking it over?

7 A. No.

8 Q. But you said something like that?

9 A. That is correct.

10 Q. How would we know that you weren't planning it when you
11 said it?

12 A. Because I didn't do it.

13 Q. And you never --

14 A. That was four years ago.

15 Q. But you were driving past it. You've driven past Ismaili
16 centers, correct?

17 A. That is correct.

18 Q. So it might be misconstrued by someone that if you're
19 driving past something and saying that you would blow -- take
20 it over, that you --

21 A. Can you repeat the question?

22 Q. It might -- could someone -- let's say someone who was --
23 else with you at that time, someone who doesn't know you, just
24 someone else, right, and hears you and he sees you passing by,
25 saying that you're going to take over this Ismaili center and

1 the Ismailis are known, the Shia are known to be targets of --
2 you're a Sunni, right?

3 A. Yes.

4 Q. So Sunnis are targeting Shias' mosques in Iraq and you're
5 saying they would do the same thing, and you're passing by a
6 Shia mosque, could it be misconstrued or could someone who has
7 an ulterior motive try to present you in a way that you were
8 actually trying to take over an Ismaili mosque?

9 MR. MCBURNEY: Objection.

10 THE COURT: Sustained.

11 Q. (By Mr. Sadequee) What's your view regarding the
12 Ismailis?

13 MR. MCBURNEY: Objection; relevance.

14 THE COURT: The question is what is your view
15 regarding the Israelis?

16 MR. SADEQUEE: No, the Ismailis, the Shias that we're
17 talking about. I was talking about --

18 THE COURT: How is that relevant?

19 MR. SADEQUEE: -- how we were passing by this Shia
20 sect mosque and the witness made --

21 THE COURT: How is it legally relevant to the case?

22 MR. SADEQUEE: I think in the general context it
23 would just help clarify.

24 THE COURT: I'm going to sustain the objection.

25 Q. (By Mr. Sadequee) We talked about Guantanamo and Abu

1 Ghraib?

2 A. Yes. There was a video of, I think, a female prisoner or
3 about a female prisoner who got raped in Abu Ghraib -- or she
4 was still there, and it was all over the Internet and on the
5 websites and, you know, people were talking about ways to,
6 like, free her. I mean, I recall us saying that, you know, we
7 should like go there and, you know, go in there and attack it
8 and bust her free because she got raped, or something along
9 those lines.

10 Q. So you said that we should do this?

11 A. Yeah.

12 Q. And I'm sure a lot of people said that you should do this.
13 I'm person who causing the same thing but I will not -- if I
14 did I wouldn't deny it. But did you plan on --

15 A. I didn't make specific plans to do that, no.

16 Q. But you did mention there was -- you did have talks about
17 going to Iraq but --

18 A. Yes.

19 Q. -- there was no plans?

20 A. Yes.

21 Q. But there was a desire?

22 A. Yes.

23 Q. Do you believe -- you said you believe it would be right
24 and just to break into Abu Ghraib and release those --

25 A. There's a way of going about everything the right way.

1 There's a way of doing things the right way. Getting her
2 released, I felt, was the right thing. But if you're asking my
3 opinion today, there's a right way of doing things, not
4 vigilante-type mentality.

5 Q. Back to codes, would you say that someone who -- being
6 someone who has used codes in the past, and you -- when you're
7 using these encrypted -- when you're encrypting your
8 discussions -- when you're encrypting your discussions do you
9 start to reach a point where -- when you reach a level of
10 proficiency where -- I'm going to leave that question.

11 You've spoken with Azdee. You mentioned Azdee?

12 A. Yes.

13 Q. Who is Azdee, to your knowledge?

14 A. He was in Canada. He was a Monian and he was involved
15 with Tibyan.

16 Q. You've spoken with him?

17 A. Online chatted with him, to clarify.

18 Q. When I said that I was going to Canada, who did I say I
19 was going to meet?

20 A. Azdee.

21 Q. And from your discussions with Azdee, what type of a
22 person is he?

23 A. I mean, he supported these views. He was emotional. He
24 was good with computers.

25 Q. You say he was emotional, what do you mean by that?

1 A. You know, his postings on Tibyan or whatever, I mean
2 they're not like timid posts. I mean, you know, it's caps,
3 very strong language, harsh, you know.

4 Q. But those are postings. But then there's chats?

5 A. Yeah.

6 Q. Could you clarify a bit? What's the difference between a
7 posting and a chat?

8 A. Posting is like on this message board here and a chat is
9 like, you know, AOL Instant Message, MSN, text messaging just
10 online.

11 Q. So postings are more public where people you don't know
12 can be reading that, and chats are more private, correct?

13 A. That's correct.

14 Q. So only those on your contact list are people who are your
15 friends, online friends, right?

16 A. That's correct.

17 Q. So they know you more than someone who's reading these
18 postings?

19 A. That's correct.

20 Q. And you've had chats with him?

21 A. Yes.

22 Q. So how is he in his chats?

23 A. Wasn't always serious, that's correct, you know, talked
24 about other things. He was also busy. I didn't get to chat
25 with him as much as like others. Sometimes he was serious in

1 nature. You know, he'd comment on a story on the news or, you
2 know, a battle in Iraq and, you know, sometimes he was serious,
3 and he also had his light moments as well.

4 Q. But the vast majority, that's what I'm trying to get at,
5 is the vast majority to your memory. If you could put a
6 percentage on it, what would you say?

7 A. It's going to be difficult for me to put a percentage but,
8 yeah, it's true a lot of times when we talked or other people
9 talked, yeah, maybe not all of our conversations were like
10 Islam, I'm going to go to X, Y, and Z, that's correct, that our
11 conversations were not like that. But, like I said, there were
12 serious. I can't put a percentage. There were serious and a
13 lot of lighthearted ones as well.

14 Q. To your most honest memory, what -- I mean, if you don't
15 remember you can just say I have no memory. But if you do
16 remember, do you remember saying a lot of time is wasted on the
17 Internet on this nonsense? At the time, when you still hold
18 the ideology, but when you say nonsense, what do you mean? Do
19 you mean that this is a bunch of just not serious people who
20 are just shooting their mouths off, or did you mean this
21 nonsense, this is wrong ideology? Which you held on to that
22 ideology at the time, so what did you mean when you did hold on
23 to the ideology? What --

24 A. There's two types of nonseriousness. I mean, even if
25 you're not actively pursuing moving to a theater of combat,

1 there are other people that are just as religious, they're not
2 extreme but they don't waste time on the Internet. You know,
3 they pray, they read, they study. I meant it from that point
4 of view.

5 I also meant it from the point of view some people,
6 you know, they aren't serious, they say that they aren't
7 going -- you know, they're talking junk, basically, there is
8 that as well.

9 If I said -- and I do recall saying that, it was from
10 both, they weren't serious, they weren't really going to do --
11 not all of them but some of them were just, you know, just
12 people posting. But also not all of them were religious. You
13 know, they posted all this stuff on the 'net but they weren't
14 practicing, so it's like they weren't serious. If they're not
15 practicing people, how are they going to go do all these other
16 things?

17 Q. When you heard that I was arrested, what was your
18 reaction?

19 A. I was surprised. I wasn't -- because I was interviewed
20 but I didn't know anything else that happened.

21 Q. When you were first approached by the FBI were you
22 surprised that they were interviewing you?

23 A. I was a bit surprised, yeah.

24 Q. And when they asked you about me -- my question is, if I
25 may go back to that question I asked you earlier, you seemed

1 like you were kind of dodging the answer so I want to ask you
2 just very bluntly and precisely.

3 Can you give a percentage, an estimate of the -- in
4 all our meetings and conversations, you spent time at my house,
5 I spent time at your house, we spent time paintballing each
6 other, what was the nature and atmosphere in our character with
7 each other? I mean, were we -- and when we say "serious," I
8 mean I'm not saying that we're talking about serious, there's
9 one thing that we were talking about serious issues, then
10 there's another thing is to be serious in what -- in our
11 intentions and in our demeanor, that's correct term, because
12 someone might be talking about Iraq and Afghanistan, which are
13 serious issues, of course, but they might be joking about it.
14 Or they might be expressing something in a very exaggerated
15 manner, their own opinions or beliefs or desires in a manner
16 which is excited or overexcited, I think that's a proper term,
17 which --

18 A. There are many times where, like you asked me earlier,
19 like we did say things when we are overly excited, yes.

20 Q. The question is not whether there were times. My question
21 is what percentage would you put on that?

22 A. I can't put a percentage. It's difficult.

23 Q. Would you say the vast majority was like that or would you
24 just say it was just one conversation out of a hundred that
25 was -- we were joking around?

1 A. It was not one conversation out of a hundred that we were
2 joking, it was more than that. I'm not comfortable saying it's
3 a vast majority; I'm not saying it's a vast minority of the
4 conversations. But I really honestly can't say it was vast
5 majority or the vast minority. It was a mix.

6 THE COURT: Let's move on to a different topic.

7 Q. (By Mr. Sadequee) In our paintball -- before I get into
8 the paintball, related to it, what is *al Battar*?

9 A. It's a magazine that Al Qaeda publishes on the Internet.

10 Q. What's it about? What's the topics of --

11 A. I didn't understand Arabic but from what I understood --

12 Q. You see --

13 A. -- it was --

14 THE COURT: Wait. We really need to ask, when you
15 ask a question, you need to let him answer it. And you need
16 to, I know it's hard, but you need to wait until he's done with
17 his questions. Sometimes it's hard to tell that, make sure
18 that you're confident that it's done before you answer it.

19 THE WITNESS: Okay. The question?

20 Q. (By Mr. Sadequee) What's the topic of -- did you ever
21 have a copy or online copy of any of these -- *al Battar*
22 magazines?

23 A. Yeah, I downloaded them but I didn't understand them
24 because they're in Arabic.

25 Q. Have you seen, gone through the pages and seen the

1 pictures on them?

2 A. What do you mean by -- they didn't have photos.

3 Q. They had photos of weapons and guns in them?

4 A. I don't think they had -- they had title headings and
5 basically it was about preparing yourself for jihad. I don't
6 recall photos. But I mean, I knew that was what it was about,
7 preparing yourself for jihad.

8 Q. It was the how to stuff, the training stuff; it was not
9 ideological stuff?

10 A. I don't recall if it was just ideological or training.
11 And it had some training stuff.

12 Q. Online did you, or us, have access to training material if
13 we wanted to, such as *al Battar*, which is the --

14 A. Yes.

15 Q. -- official --

16 A. If we wanted to we could download it, that's correct.

17 Q. -- Al Qaeda training manuals are available online in
18 Arabic and also some in English, not official okayed in English
19 but in Arabic it is, *al Battar*.

20 Now, when we went to paintball, did we ever study or
21 take or mention *al Battar* or any of these other training --

22 A. No.

23 Q. -- manuals for terrorist organizations?

24 A. We did not mention it.

25 Q. Did we ever -- so we had access to them and knowledge of

1 them, meaning that it is available to us, but we did not
2 utilize them; is that correct?

3 A. That is correct. But we did, I remember reading online
4 that it said we should do like pushups and running. So we
5 didn't actually use a manual but we did that part. But as far
6 as like when we did the paintballing, you know, we didn't have
7 a set drill that we downloaded or whatever. But one of the
8 reasons for paintballing was we did read that you should go out
9 and --

10 Q. So the reason that --

11 A. -- go out in --

12 THE COURT: You need to let him finish.

13 THE WITNESS: Just go out in the woods and get in
14 shape. But, no, when we did the paintballing it wasn't like we
15 had some consultation with, you know, how to best utilize
16 paintballs or something like that.

17 Q. (By Mr. Sadequee) If someone really seriously with
18 determination wanted to do terrorist training or training for
19 jihad and has access to these training manuals from Al Qaeda
20 free online, would they not --

21 MR. MCBURNEY: Objection.

22 THE COURT: Why don't you let him finish the
23 question?

24 MR. MCBURNEY: Well, he will have made his argument
25 that he's trying to make in his question if he finishes it.

1 But I'll wait. The objection is this is an argumentative
2 question.

3 THE COURT: There are a number of questions, because
4 I watch them online, that are speeches. You may ask a question
5 to elicit factual information of what this person knows. You
6 may not ask questions that summarize your position of the case.

7 You are functioning as your lawyer. As a lawyer, you
8 are responsible for asking proper questions and a proper
9 question is one in which you elicit information about this
10 person's knowledge. You cannot state your position in the case
11 through your questions.

12 Q. (By Mr. Sadequee) So no training manuals were
13 consulted --

14 A. That's --

15 Q. -- but there was mention or talk amongst us about training
16 for jihad?

17 A. That's correct.

18 Q. And we had knowledge of -- we had in our possession, not
19 meaning reading it at the time but available to us online,
20 these training manuals?

21 A. That is correct.

22 Q. We had -- we never -- did you ever study these training
23 manuals?

24 A. No. They were all in Arabic.

25 Q. I knew Arabic. Did you and I ever discuss that we should

1 use these for our paintballing?

2 A. No, we did not.

3 Q. Did we ever, during the paintballing, did we ever mention
4 these training manuals at all?

5 A. No.

6 Q. But we were saying we were training for jihad?

7 A. That was one of the reasons we went to the woods. We did
8 mention that, you know, it's good to be in the nature, to
9 reflect on nature. We also just wanted to have fun as well.
10 But we did say that, you know, that it would help us toward
11 jihad, that's correct.

12 Q. The place where this, the government phrases it
13 paramilitary, rudimentary paramilitary training, can you
14 describe the place?

15 A. There was two places. One was behind an apartment complex
16 you and Haris had lived when you were younger. And the other
17 place was, I think it was a hunting ground or some forest area
18 by Haris's house, like a mile away.

19 Q. Can you describe the place as --

20 A. Which one?

21 Q. -- how does it look like?

22 A. Which one?

23 Q. At Haris's place, the one in Dawsonville.

24 A. Basically you drove and you parked your car in the grass
25 and then you walked in the woods and it was really hilly and it

1 had a lot of water streams and a lot of trees.

2 Q. Nice place?

3 A. Yeah.

4 Q. Like real beautiful nature type?

5 A. That's correct.

6 Q. Did we comment on that?

7 A. Yes.

8 Q. Would it be a place where people might like hanging around
9 and staying and relaxing?

10 A. I mean, that's correct, we saw people off-road in there
11 when we were paintballing once.

12 Q. What was the mood and the tone of our paintballing? When
13 we were paintballing, how would you describe it? Was it
14 like -- you've seen the movie -- not the movie, the Al Qaeda
15 film, *State of the Umma*?

16 A. Yes, that's correct.

17 Q. And it has training video -- not only did we have access
18 to training manuals, we also had access to training videos as
19 well, right? Did we consult these training videos which
20 actually show how to do training, like in --

21 A. We didn't consult that video and I don't remember us
22 consulting other videos.

23 I do remember, though, like I said, the message board
24 like said, you know, doing pushups and running through the
25 woods. That's the one thing I can say we kind of did consult,

1 or we saw it online and we kind of implemented it. But as far
2 as exercises or drills, we did not consult a book or video.

3 Q. So you read online that pushups and situps are training
4 for jihad and you did it and so that's a training for jihad?

5 A. That was part of our mindset.

6 Q. Did we try to imitate anything that we've seen in those
7 training, jihad training videos, like *State of the Umma*, like
8 have a fire in a circle and they're jumping through it?

9 A. We did not jump through a fire with circle. Maybe
10 shooting at trees, that might -- I don't know if it was in a
11 video but, I mean, you see scenes of that but that's about it.
12 You know, they have obstacle courses. We didn't have anything
13 like that, or them sparring against each other, we didn't do
14 anything like that, that's correct.

15 Q. So what was the mood, back to the question, the actual
16 question I was getting at, what was the mood of our
17 paintballing? Was it a -- when someone -- if someone is doing
18 rudimentary paramilitary training, the first one that comes to
19 mind is like FARC, you know, in Colombia, paramilitary group.
20 Would you describe it as paramilitary training or would you say
21 this is just some guys having --

22 A. It wasn't full-blown, I wouldn't describe it as full-blown
23 paramilitary training. I said we had multiple intentions even
24 when we went there.

25 The only reason -- you could say we had that

1 intention, part of our intention was going there would help us.
2 But it was not like a boot camp, no, it was not like a
3 paramilitary boot camp. But, like I said, our intentions were
4 mixed but it was not a paramilitary-like training camp or
5 anything like that.

6 Q. Of course, not a military camp but --

7 THE COURT: Let's move on to a new subject.

8 Q. (By Mr. Sadequee) One last question. Were we -- was our
9 paintballing, would you characterize it as lighthearted, in
10 that we're having just fun, or was it -- was it more fun or was
11 it more of just training?

12 A. It wasn't just serious training. We did have fun in it.

13 Q. What was the majority of it? I'm not saying -- does it
14 have just an element of it? If it has just an element of --

15 A. I mean it depended, like, you know, if I was near you and
16 I was about to shoot you, maybe I was more serious, okay, like
17 this is a real-time simulation. The rest of time we were
18 shooting at trees and stuff, no, I mean, it was probably more
19 lighthearted. You know, it depended on what was going on.

20 But, like I said, it wasn't like pure military or
21 paramilitary training. It wasn't -- you know, we didn't have a
22 drill sergeant telling us what to do. It's kind of hard to
23 describe the --

24 Q. What clothes --

25 A. -- majority or not. The clothes we were wearing, jogging

1 pants, sneakers and a T-shirt.

2 Q. No military clothing?

3 A. No military clothing, no.

4 Q. No armor? No armor or anything like that?

5 A. No. We might wear two shirts because it would hurt if you
6 got hit with the paintball. That might count as armor.

7 Q. Do we preplan anything of the paintballing or was it just
8 we went to the woods and just do whatever came to our minds?

9 A. I mean we said, okay, we'll go at this time, but is that
10 what you mean by preplanning?

11 Q. Preplanning, we're going to go to the woods and have A, B,
12 C, D exercises to do, then once we finish this then we move on
13 to location --

14 A. No. It was random, very random.

15 Q. We just go there and start doing whatever?

16 A. Yes.

17 Q. Would you do it again? I mean, if it was fun --

18 A. Paintballing just for the sake of paintballing?

19 Q. Yeah.

20 A. Yeah, maybe. Why not?

21 MR. SADEQUEE: That will be it. Thank you.

22 THE COURT: How long is your redirect examination?

23 MR. MCBURNEY: Five minutes.

24 THE COURT: All right.

25 MR. MCBURNEY: I will work to keep it five or under.

REDIRECT EXAMINATION

1
2 BY MR. MCBURNEY:

3 Q. Let's start with code, it's a term I used. By code, you
4 weren't transposing an A for a Z and a B for a Y when you
5 were --

6 A. No.

7 Q. -- communicating with people?

8 A. No.

9 Q. Pharaoh is a way to write United States?

10 A. That's correct, or Land of Pharaoh, yes.

11 Q. Two Rivers for Iraq?

12 A. Yes.

13 Q. Was the concern that if someone, Big Brother, was reading
14 through what you had written, the word Iraq or jihad might jump
15 out?

16 A. That's correct.

17 Q. If you replaced it with something easy to figure out, Two
18 Rivers equals Iraq, still it wouldn't say Iraq?

19 A. That's correct.

20 Q. The defendant asked you several times about a video,
21 apparently you guys watched together, the *State of the Umma*?

22 A. We didn't watch it together but we had copies of it.

23 Q. You've seen it?

24 A. I've seen it, yes.

25 Q. What does it celebrate?

1 A. It was basically a video that shows like Osama bin Laden,
2 Azzam, other guys, and it basically tells you the Muslim world
3 is in peril and so like now, it's like it's up to you to like
4 take action and, you know, join violent jihad, that type of
5 thing.

6 Q. The last thing I want to cover with you is this question
7 of lightheartedness versus seriousness. When you and the
8 defendant and sometimes Syed Haris Ahmed would get together, it
9 sounds like sometimes you'd joke around?

10 A. Yeah.

11 Q. You might joke around about what's going on in Iraq?

12 A. Yeah.

13 Q. You might joke around about the need to do something in
14 support of violent jihad?

15 A. Yes.

16 Q. Were there also times when you were serious in your
17 discussions about what was going on in Afghanistan?

18 A. Yes, that's correct.

19 Q. Were there times when you were serious in your discussions
20 about the steps you and the defendant and Syed Haris Ahmed
21 should take in support of that cause?

22 A. That's correct.

23 Q. When you would finish one of these get-togethers and drive
24 home, were you thinking, I'm done with those guys, now it's
25 back to the real world, I don't really believe those things?

1 A. No. We still held on to our belief. I think it was
2 whether am I going to do that tomorrow or -- but we still
3 believed that we had the obligation. We still -- we had that
4 serious desire, had that serious intention, but, you know, it
5 varied. Like sometimes, you know, you get back from one of
6 those meetings or discussions and time would pass, maybe a
7 calm, maybe if you got calm you would watch another thing to
8 get you more pumped or keep your commitment.

9 Q. So we're clear, during calm times, not agitated or worked
10 up by *State of the Umma* or some other video or a nasheed,
11 during calm times did you and the defendant and Syed Haris
12 Ahmed discuss the importance of supporting violent jihad?

13 A. That's correct.

14 Q. And for you -- I know you don't know what's in the
15 defendant's heart -- for you at that time, late 2004, early
16 2005, when you were spending time with the defendant and Syed
17 Haris Ahmed, were you serious about the need at some point --
18 before I said it's a question of timing -- to make hijrah, get
19 over to Muslim lands and support violent jihad?

20 A. That's correct.

21 Q. Thank you, Mr. Kamal.

22 THE COURT: All right, does anybody want Mr. Kamal
23 subject to recall?

24 MR. MCBURNEY: No, sir.

25 THE COURT: Do you want Mr. Kamal subject to being

1 recalled?

2 MR. SADEQUEE: Yes.

3 THE COURT: I'm going to release you subject to
4 recall, meaning that you should not discuss your testimony with
5 anybody until you either have been recalled or you've been told
6 that the case has been concluded. Thank you. Do you
7 understand that?

8 THE WITNESS: So not to discuss the case and I can be
9 called back here to testify, is that what you're saying?

10 THE COURT: That's correct. But somebody will
11 contact you. I'm not saying that's going to happen, that's
12 just a possibility and it's a way of me telling you that until
13 that possibility either happens or the case is over, you
14 shouldn't talk about the case with anybody.

15 THE WITNESS: Okay.

16 THE COURT: All right, thank you. You may step down.
17 Thank you for being with us.

18 We are going to take our lunch break. We'll take it
19 for an hour, meaning that we should be back ready to go at
20 1:05. Again, don't discuss the case with anybody because we're
21 just getting into the evidence. Enjoy your lunch and we will
22 see you back here --

23 THE COURTROOM DEPUTY: 2:05.

24 THE COURT: 2:05, excuse me. I'm in favor of doing
25 things quickly but not five minutes' worth.

1 (Jury retired from courtroom at 1:05 p.m.)

2 THE COURT: Can we close the back door, please?

3 The first thing I want to go over is this concern
4 that you have about what I said in the preliminary
5 instructions. I've gone back to read, because I don't have
6 access to this transcript, I will over lunch, but I'm sure that
7 what I said was that any statements made in the opening
8 statements by counsel or by the defendant are not evidence and
9 can't be considered. Is that when you thought I said something
10 that you didn't understand or you thought was ambiguous?

11 MR. MCBURNEY: Yes. You made that point and then
12 what I'm recalling and the note that I made, and Ms. Collins
13 made almost simultaneously, is we thought you said, beyond
14 that, statements made in opening, closing, and any statement by
15 the defendant is not evidence in this case. I think what you
16 meant by that, if I heard it correctly, was if he's asking
17 questions, as we've seen, if he's effectively making statements
18 instead of asking --

19 THE COURT: I understand your concern. What I'm
20 going to do when the jury comes back is explain to them that
21 any statements that were made during openings or may be made
22 during closings are not evidence and they cannot consider it as
23 evidence, but any statement that is made that's introduced into
24 evidence may be considered.

25 MR. MCBURNEY: Okay.

1 THE COURT: Is that satisfactory?

2 MR. MCBURNEY: Yes.

3 THE COURT: Any objection, Mr. Sadequee?

4 MR. SADEQUEE: Could you clarify?

5 THE COURT: I'm going to tell the jury again that any
6 statement made by counsel or by the defendant in their opening
7 statements or in their closings are not evidence, they may not
8 be considered by the jury as evidence. But any statement
9 that's introduced into evidence during the course of the trial
10 can be considered, regardless of who made it.

11 MR. SADEQUEE: No objection.

12 THE COURT: All right. Do we have another matter?

13 MR. MCBURNEY: We do. I received a surprising report
14 from Mr. Martin. We were going to call Syed Haris Ahmed now to
15 have him refuse to testify, which is, up until five minutes
16 ago, what I was told he was going to do.

17 Now I'm being told that he may be willing to testify
18 but we need to resolve that outside the presence of the jury.
19 So with the Court's permission, I think we should bring him in
20 and figure out what his answer is. If his answer is he will
21 testify, we need to figure out when that time is. It may be
22 today because he's here. It might not be the first thing that
23 happens after lunch.

24 MR. MARTIN: Your Honor, may I consult with him just
25 a minute before we bring him in?

1 THE COURT: Yes.

2 MR. SAMUEL: Your Honor, while we're waiting, my
3 understanding was in order to facilitate bringing Professor
4 Gerges here you need Mr. Sadequee to ask for it rather than us?
5 Did I misunderstand that?

6 THE COURT: I never said that.

7 MR. SAMUEL: I misunderstood.

8 MR. WAHID: Sorry, Judge. It was the idea that the
9 order was submitted on the request of Mr. Sadequee to bring him
10 and because we anticipated the trial might be moving quicker
11 than we originally thought, our concern was originally we
12 thought bring him Friday or Monday, so the order simply may
13 need to be looked at today and signed up today.

14 THE COURTROOM DEPUTY: It was e-mailed to me.

15 THE COURT: Well, I have not seen that order. I
16 didn't know that was an issue. I don't recall discussing it
17 but that doesn't mean we didn't. If we do bring him, I would
18 expect that he will testify. So you need to make that -- Mr.
19 Sadequee needs to make the decision whether he's actually going
20 to present him because if he's not and we have to spend money
21 to bring him down here, that would not be a prudent expense.

22 MR. WAHID: Which is what I was trying to, with Mr.
23 Samuel -- I figured that and that's why I thought Mr. Sadequee
24 should request to the Court directly.

25 MR. SADEQUEE: I don't think it will be --

1 THE COURT: Sorry, didn't hear you.

2 MR. SADEQUEE: I don't think I will call Mr. Gerges.

3 THE COURT: So you elect not to have me have
4 Mr. Gerges fly to Atlanta because you are not going to call him
5 as a witness; is that correct?

6 MR. SADEQUEE: Yes.

7 THE COURT: Thank you. While we're waiting, Mr.
8 Sadequee, I have been very liberal in allowing you to ask
9 cross-examination questions, but you need to understand that
10 there are rules that apply to the case; you are bound by those
11 rules. And you have a tendency, I'm chalking it up to the fact
12 that you haven't done this before, to make statements in
13 support of what your position is in the case. I just want to
14 remind you that's not proper, that what you have to do is to
15 ask a question. And I'll give you an example.

16 I think you went into a lot of, a number of questions
17 about what was the atmosphere like. It's okay to say, "Please
18 describe the atmosphere" or "Wasn't the atmosphere jovial?"
19 But what you can't do is say, "Wasn't the atmosphere jovial
20 because isn't it true that when people really don't believe in
21 something, really aren't serious about something, that they
22 would act in a jovial way as opposed to a serious way?"

23 The first question is a proper question. But your
24 statement about explaining why you want the answer that you
25 want is not, which means you are better served by asking

1 shorter questions. When they get long is when you have that
2 problem. I just want to give you that guidance.

3 MR. MARTIN: Your Honor, before you bring him in, he
4 requested before he made this important decision that he have
5 just a minute or two to pray and that's what he's doing right
6 now and that's what I was waiting on.

7 THE COURT: Okay.

8 One more hint or suggestion to you in asking
9 questions. The other thing that you may not do, I don't think
10 you did this but once or twice, but you did make a comment on
11 one case saying, "Do you remember you saying, I was there and I
12 remember you saying." That's really you testifying. You can
13 ask him, "Do you remember when we were together saying X?"
14 What you can't say is to say, "I'm going to tell you what you
15 said because I was there and remember that." That's not
16 proper. But you can ask the question about what he remembers
17 saying or what he doesn't remember saying. Do you understand
18 that --

19 MR. SADEQUEE: Yes.

20 THE COURT: -- guidance?

21 MR. MARTIN: Your Honor, while he's doing that, I
22 just wanted to mention a couple of things with regards to the
23 immunity that you've given him.

24 This is an unusual situation, in that he is awaiting
25 sentencing before you and he's about to give testimony. Under

1 an immunity it would be my understanding, and I would ask the
2 Court if it's of a different opinion to let me know, that this
3 Court could not use anything he says during any of these
4 proceedings with regards to sentencing. You might want to, we
5 might urge you to, but it occurred to me that immunity would
6 mean that this cannot be used against him in any respect,
7 including sentencing. It's an odd situation I've never
8 personally confronted before. I've seen sometimes in cases,
9 but that's an issue I just wanted to present to the Court
10 that's sort of a conundrum in this.

11 The second thing is --

12 THE COURT: Give me an example of --

13 MR. MARTIN: I don't know. I can't give you an
14 example. Because I know you've heard, I would expect his
15 testimony would be essentially what you've already heard in his
16 interviews, that's what I expect. But I don't know what might
17 come up, especially on cross-examination.

18 The second thing is with regards to foreign
19 prosecutions, I'm familiar with the Eleventh Circuit case and
20 the Supreme Court case that says as a general matter that is
21 not a concern. But I have been assured by, just briefly,
22 informally, by Mr. Nahmias that they would make sure that -- we
23 have potential prosecutions, of course, in Canada, United
24 Kingdom and Pakistan, quite frankly, maybe even Bosnia,
25 probably that would be a stretch, but those three, clearly

1 Canada, is a clear possibility if he was refusing to testify
2 and they have tried to perfect that issue in more detail and I
3 don't think it's going to happen. But I'm just wanting to say
4 to the Court that I've at least been informally assured by
5 Mr. Nahmias that they would make sure that didn't happen. Is
6 that correct?

7 MR. NAHMIAS: Just to be clear, I said we can reflect
8 to those governments it wouldn't happen. It would only be the
9 use of his immunized testimony, in the same way when we turn
10 somebody over to the state we sometimes say you can prosecute
11 him but you can't use his immunized testimony to prosecute him.

12 THE COURT: Well, I can't do anything about that --

13 MR. MARTIN: I understand that.

14 THE COURT: -- but if you want it on the record --

15 MR. MARTIN: I just want it on the record.

16 THE COURT: -- the U.S. attorney to state what he
17 would represent to a foreign government, I think you have that.

18 MR. MARTIN: Yes, sir.

19 (Syed Haris Ahmed entered the courtroom.)

20 THE COURT: I need first to have you sworn in.

21 THE COURTROOM DEPUTY: Please raise your right hand.

22 (SYED HARIS AHMED duly sworn/affirmed by the
23 courtroom deputy.)

24 THE COURT: Did you say yes?

25 DEFENDANT AHMED: Yeah.

1 THE COURT: All right, Mr. Ahmed, I believe that you
2 have received an order that I entered on July 15th of 2009, in
3 which the order states, and let me just read it, that you are
4 ordered that you shall, if called in this trial, testify as a
5 witness in the United States versus Ehsanul Islam Sadequee,
6 which was scheduled to begin, and which did begin, yesterday.
7 And I further ordered that if you refused to comply with the
8 order from which I'm reading on the basis of your privilege
9 against self-incrimination that you may not do that, you may
10 not rely upon your Fifth Amendment privilege because I'm
11 ordering you to do that and whatever you would say you have
12 immunity from.

13 Your testimony and any information compelled under
14 the order, I said in this order, may not be used against you in
15 any criminal case except that if you testify in any -- that
16 your testimony and any information derived from it could be
17 used in a prosecution of you for perjury or for giving a false
18 statement or for failing to comply with this order, meaning
19 that while you are ordered to testify, you have to testify
20 truthfully and, if you don't, you could be prosecuted for a
21 further criminal offense. Now, do you understand the order?

22 DEFENDANT AHMED: Uh-huh.

23 THE COURT: Yes?

24 DEFENDANT AHMED: Uh-huh.

25 THE COURT: And have you discussed it with

1 Mr. Martin?

2 DEFENDANT AHMED: Yeah.

3 THE COURT: And has he explained it to you as well?

4 DEFENDANT AHMED: Yeah.

5 THE COURT: If you are called to testify, what is
6 your intention? Do you intend to testify or do you intend not
7 to testify?

8 DEFENDANT AHMED: When am I going to be called?
9 Today or tomorrow?

10 THE COURT: Probably today.

11 DEFENDANT AHMED: Today? I guess I'll (inaudible).

12 THE COURT: I couldn't hear you. Could you speak
13 into the microphone so I can hear you a little better?

14 DEFENDANT AHMED: The point is I cannot decide
15 because it's against my religion to testify against Muslims.
16 Okay, so if I -- if I go against order with you will you
17 punish -- I mean is there a punishment?

18 THE COURT: I'm not to that point yet because you
19 haven't gone against the order. I don't know what I would do
20 but that's a possibility. Do you want some more time to talk
21 to Mr. Martin about this?

22 DEFENDANT AHMED: I think I will testify if it can be
23 of help in pursuit of justice. That's my only goal, to have
24 justice in any way.

25 THE COURT: And that will mean that you are going to

1 be called by the government and you will have to answer all of
2 their questions. Do you understand that? You have to answer
3 them truthfully.

4 DEFENDANT AHMED: I mean, of course, I'll answer to
5 anything that can help justice and if I think consciously that
6 it will help justice I will answer.

7 THE COURT: And then if you are cross-examined you
8 will have to answer those questions truthfully too.

9 DEFENDANT AHMED: Uh-huh.

10 THE COURT: All right. Anything else you think I
11 need to cover?

12 MR. MCBURNEY: His answer to your second to the last
13 question as I heard it, it was hard to hear, was that he will
14 answer any question that he thinks furthers justice.

15 And he needs to answer every question. This is not a
16 scenario where halfway through he could decide that's as far as
17 his perception of justice goes. I think that needs to be made
18 clear, that it's an all-or-nothing scenario, if he thinks
19 there's the possibility, because then we run into an issue in
20 front of the jury of this witness saying, "I'm not answering
21 those questions."

22 THE COURT: I think just thinking through what would
23 happen, Mr. Ahmed, once you took the stand and were sworn in
24 again, every question that the government asks, you would have
25 to answer. So if you -- I don't know what questions they're

1 going to ask you, but let's say at some point they ask a
2 question and you in your mind say, Well, that's not going to
3 serve justice in my opinion, you are not going to be able to
4 say, "Well, I'm not going to answer that one." Nor could you
5 say, if we were 15 minutes into it, that you didn't like the
6 questioning or you felt that it was not going to advance
7 justice, you can't say, "Well, I'm not willing to say anything
8 else, I've said all I'm willing to say."

9 If you testify, you have to testify completely, which
10 would mean you have to answer every question asked of you,
11 regardless of who asks you.

12 DEFENDANT AHMED: I mean, if I -- I will just sit in
13 and I will hear the question. You can't hear me?

14 THE COURT: Just speak slowly and as clearly as you
15 can.

16 DEFENDANT AHMED: I will just come and sit here and,
17 you know, let the question, I will just hear the question and I
18 will answer as best as I can.

19 THE COURT: So you will testify in response to every
20 question that is asked of you based upon your knowledge; is
21 that correct?

22 DEFENDANT AHMED: But, again, the first and foremost
23 priority to me is obedience to my God and that would be the
24 only deciding factor for me.

25 THE COURT: Well, let's --

1 DEFENDANT AHMED: We will decide what will happen at
2 that time, you know, if I will be punished at that time, okay.
3 Otherwise, I mean my only priority is to obey Allah so -- but
4 I'll be sitting here.

5 THE COURT: Let me be clear about this. If you were
6 asked a question which in your mind requires you to testify
7 against Mr. Sadequee, you have to answer that question. You
8 can't say, "Well, Allah doesn't let me do that and I refuse to
9 answer that." You have to answer every question. You cannot,
10 once you begin testifying, state that your religion doesn't let
11 you answer one or more of the questions that are put to you.

12 That means you're going to be asked some hard
13 questions that are going to impact Mr. Sadequee and if your
14 position is that your religion doesn't let you testify against
15 another Muslim, that's --

16 DEFENDANT AHMED: It's not only just Muslim; it's
17 about pursuit of justice or injustice. It's not about just
18 Muslims. It's in pursuit of justice.

19 THE COURT: Well, that's not your job, to determine
20 what's justice and what's not justice; that's the jury's job,
21 which means that you are going to have to answer the questions.
22 Are you willing to do that, every one of them?

23 DEFENDANT AHMED: I mean, if I am going to testify I
24 guess I'll testify.

25 THE COURT: That seems --

1 MR. MARTIN: I've gone over this with Mr. Ahmed. He
2 understands he will be asked -- subjected to the questions he
3 was asked during his interrogation. He understands that's what
4 he's going to be asked and he knows that.

5 I did also, of course, explain to him that there's
6 certain privileges, attorney-client privilege, they can't go
7 into those, any discussions I've had with him. But I think he
8 understands the nature of the testimony he would likely be
9 asked about.

10 THE COURT: So you're confident based upon your
11 discussions that, assuming there's no improper question or --

12 MR. MARTIN: Right.

13 THE COURT: -- or privileged, but assuming they are
14 all proper questions asking for his knowledge of the facts,
15 that he will testify and that's what he's told you as well?

16 MR. MARTIN: Relevant to these proceedings, of
17 course, yes.

18 THE COURT: All right. Anything else that the
19 government or Mr. Sadequee would like on this issue of the
20 order and compliance with it?

21 MR. MCBURNEY: Just a scheduling point. In thinking
22 more about it and talking about it with my colleagues, I don't
23 expect that we would get to Mr. Ahmed today in terms of being
24 prepared for a meaningful direct examination.

25 THE COURT: I think the reason why we did this today

1 is because you told me yesterday that he was going to be put up
2 today. Otherwise we --

3 MR. MCBURNEY: Yes, sir, because we had been told,
4 every time we asked, until five minutes before he walked in,
5 that there was no chance he was testifying and so we prepared
6 this trial -- there will be some witnesses now we don't need to
7 call.

8 THE COURT: I understand your position.

9 Mr. Martin, is that true?

10 MR. MARTIN: That is absolutely true. It has been
11 fluid throughout but until right before we had this meeting I
12 told Mr. McBurney that he would likely not testify.

13 THE COURT: All right. Well, tell me so that the
14 Marshals Service knows when to bring him back.

15 MR. MCBURNEY: They can take him back now. They need
16 to bring him tomorrow. We will commit to getting him on the
17 stand at some point tomorrow. He need not stay unless
18 Mr. Martin needs to see him any longer.

19 MR. MARTIN: I'd like to talk to him just a minute or
20 two but he can go back.

21 THE COURT: Tomorrow is a long time. Can't you be
22 more specific than committing to just tomorrow?

23 MR. MCBURNEY: My understanding is they bring them
24 at 9:00. I'll get back to the Court and the marshals.

25 THE COURT: They go back at 3:00, too, so --

1 MR. MCBURNEY: What we'll do with the remainder of
2 the lunch break is figure out when tomorrow he can fit in and
3 I'll report back to the Court before the jury comes in.

4 THE COURT: All right. Is there anything else before
5 we break for lunch?

6 I intend to extend the lunch break because this has
7 taken so long, so you should be back at 20 after and we'll give
8 the jury a longer lunch break.

9 All right, we'll be in recess.

10 (Luncheon recess, 1:25 p.m. to 2:21 p.m.; following
11 proceedings outside the presence of the jury.)

12 THE COURT: Is there anything we need to discuss
13 before we continue?

14 MR. MCBURNEY: Judge, we looked at the schedule of
15 witnesses and if Syed Haris Ahmed is here by 11:00 tomorrow, we
16 may get to him before lunch, likely after the lunch break, but
17 that's our request of the marshals and we can put in a
18 production order if you need it, but if he could be back here
19 by 11:00 tomorrow, we will not need him before then.

20 THE MARSHAL: It's taken care of.

21 THE COURT: All right, thank you very much. Anything
22 else?

23 MR. MCBURNEY: Nothing from the government.

24 THE COURT: All right, let's bring the jurors in,
25 please.

1 (Jury returned to the courtroom.)

2 THE COURT: All right, ladies and gentlemen, I hope
3 you had a good lunch. I'm sorry that I had to extend the lunch
4 hour but in a fit of compassion I decided, considering that we
5 had a lot of matters to take up in your absence, that I would
6 actually let the lawyers have lunch. So as much as I wanted to
7 press on, I think that was the right thing to do.

8 You recall after the openings Mr. McBurney stood up
9 and he did bring something to my attention at one of the
10 breaks. I'm going to give you an instruction which I think
11 I've already given, but just out of an abundance of caution to
12 make sure nobody misunderstood what I said.

13 When anybody makes a statement or during the course
14 of an opening statement or in a closing argument in this case,
15 lawyer for the government made their opening and they'll later
16 make their closing, and Mr. Sadequee has made his opening and
17 later will make his closing, that's not evidence, as I told
18 you, because that's not something that I admit into evidence.
19 That is just their statements and you may not consider it as
20 evidence.

21 But any evidence, including any statements that I
22 allow to be introduced into evidence, those statements, because
23 they have been admitted, can be considered by you in your in
24 deliberations. So I just wanted to make sure there wasn't any
25 confusion about that.

1 Does that address your concern, Mr. McBurney?

2 MR. MCBURNEY: Yes. Thank you, Judge.

3 THE COURT: Call your next witness, please.

4 MR. MCBURNEY: Government calls Veera Boonyasait.

5 THE COURT: Mr. Boonyasait, if you will stand in the
6 witness box I'll have you sworn in.

7 THE COURTROOM DEPUTY: Please raise your right hand.

8 VEERA BOONYASAIT,

9 being first duly sworn or affirmed, was examined and testified
10 as follows:

11 THE COURTROOM DEPUTY: Please be seated.

12 DIRECT EXAMINATION

13 BY MR. MCBURNEY:

14 Q. Good afternoon, sir.

15 A. Good afternoon.

16 Q. Take the little sticker off. Thank you.

17 THE COURT: And if you will move up just a bit so
18 you're closer to the microphone, please.

19 Q. (By Mr. McBurney) Need you to spell your name for the
20 court reporter.

21 A. My first name is spelled V-e-e-r-a, last name is
22 B-o-o-n-y-a-s-a-i-t.

23 Q. Sir, where do you work?

24 A. I work at the Federal Bureau of Investigation.

25 Q. Where?

- 1 A. At Washington, D.C.
- 2 Q. The capital as opposed to the state?
- 3 A. Correct.
- 4 Q. Your job for the FBI in Washington, D.C., is what?
- 5 A. I am an intelligence analyst.
- 6 Q. How long have you worked at the FBI?
- 7 A. Three years and ten months.
- 8 Q. What did you do before that?
- 9 A. I was a graduate student at the University of Florida.
- 10 Q. What was the degree you received?
- 11 A. Astronomy.
- 12 Q. A master's?
- 13 A. Ph.D.
- 14 Q. Then you joined the FBI?
- 15 A. Correct.
- 16 Q. You're an intelligence analyst. Do you work for a
17 particular unit within the FBI?
- 18 A. Yes, I do. I work for the Counterterrorism Internet
19 Targeting Unit.
- 20 Q. As part of your job in that unit, do you work with
21 websites and web forums?
- 22 A. Correct. Our mission is to combat the adversarial use of
23 the Internet.
- 24 Q. Adversarial use?
- 25 A. Yes, terrorist use of the Internet.

1 Q. Have you ever as part of your job reconstituted an
2 archived website? What I mean by that is have you been given
3 the constituent pieces of a website or a web forum and been
4 asked to put it back together?

5 A. Yes, I have.

6 Q. You've done that once or many times?

7 A. Many, many times.

8 Q. Have you taught others in your unit or at the FBI how to
9 do that?

10 A. Yes, I have.

11 Q. Were you asked in this case, case against Defendant
12 Sadequee, to do that type of work?

13 A. Yes, I have.

14 Q. Explain to the jurors what the difference is between a
15 website -- CNN.com, foxnews.com -- and a web forum?

16 A. Okay. A website like the CNN.com is usually a website
17 whose content is published by the owner of the website;
18 whereas, a web forum is like your traditional message board
19 where it's user content provided. So the members who are in
20 the forum make up the content of the website. So it's just not
21 the owner of the website itself that publishes the information
22 out.

23 Q. The websites that you were asked to put back together in
24 this case, were they web forums? In other words, user-created
25 content, or websites, owner-generated content?

1 A. No. They were web forums.

2 Q. Earlier this year did FBI Atlanta send you several disks
3 containing parts of web forums for you to put back together?

4 A. Yes, they did.

5 Q. Let's talk about each disk in turn. On the first disk,
6 and there's not significance as to which one we talk about
7 first, was there an archived copy of a single web forum?

8 A. Yes, there was.

9 Q. What is your understanding as to where that came from?

10 A. The first disk, which contained one single set of the
11 data, came from the seized media as obtained by the British
12 authorities for one of their investigations.

13 Q. So law enforcement in the United Kingdom got someone and
14 seized digital evidence, you got a piece of that?

15 A. Correct.

16 Q. Okay. What was on that disk? You said one web forum.
17 What web forum?

18 A. That web forum was the Tibyan Publications.

19 Q. When someone archives a website does that entail the
20 destruction of any content? Not the work you're doing, but the
21 work that actually ends up putting it on a disk.

22 A. No. It actually preserves it.

23 Q. And when you reconstitute, using whatever software you
24 use, is any content lost?

25 A. No.

1 Q. On the second disk, what was there?

2 A. On the second disk there were actually several websites.
3 One was Tibyan Publications and the other one was for al-Ansar.

4 Q. The Tibyan Publication website, did you reconstitute all
5 the websites you were given, the one on the first disk and the
6 several on the second?

7 A. Yes. There were actually two other snapshots of Tibyan
8 Publications that was on the second disk and then there were
9 three snapshots of al-Ansar on the second disk and the
10 snapshots were from different times.

11 Q. So we had three snapshots in time of Tibyan across the two
12 disks?

13 A. Yes.

14 Q. And three snapshots of the al-Ansar forum?

15 A. Correct.

16 Q. The Tibyan Publications forum, when you reconstituted it,
17 was it primarily in English?

18 A. Yes.

19 Q. Al-Ansar was primarily in what language?

20 A. Arabic.

21 Q. Are you able to read Arabic?

22 A. No, I do not.

23 Q. Any idea what's on the al-Ansar forum?

24 A. No, I do not, no.

25 Q. Okay. That second disk that we just talked about that had

1 two copies of Tibyan and three of Al-Ansar, where did it come
2 from?

3 A. That was obtained from a search warrant from a U.S.
4 server.

5 Q. When you say "server," what do you mean by that?

6 A. A web server is designed to host websites, in this case a
7 web forum, that a lot of people visited. It's a bit different
8 than your normal desktop because you expect a lot of people to
9 visit your website and therefore it has special functions to
10 serve a lot of people to visit the website.

11 Q. So the FBI did some search on a server here in the United
12 States and some of what was found there included two snapshots
13 of Tibyan and three of al-Ansar?

14 A. Correct.

15 Q. Were you able to determine, after you reconstituted these
16 websites, the date and time of the snapshot?

17 A. Yes.

18 Q. The snapshot of Tibyan that was on the disk of evidence
19 seized from the United Kingdom, what was the date? Just month
20 and year.

21 A. Approximately from April 2005.

22 Q. Okay. And then the two versions of Tibyan that you
23 reconstituted from the search of the server here in the United
24 States, what were those dates, month and year?

25 A. One was from October 2005, and the other one was from

1 December of 2005.

2 Q. The three versions of al-Ansar, were you able to tell a
3 date with things being in Arabic?

4 A. Yes. Approximately, they -- two of them came from August
5 of 2005 and the other one from October of 2005.

6 Q. So there was some date on there in the Roman alphabet?

7 A. Yes. The way I determined the last time the website was
8 accessed was through looking at a specific data that recorded
9 the actions made to the web forums and looking at the last
10 actions made for those websites, you could tell when they were
11 last active before they were archived from restoring -- sorry,
12 the information was stored.

13 Q. So you may have found this date not by looking through the
14 rebuilt website, but through your work --

15 A. Yes, sir.

16 Q. -- you're able to find a piece of information that tells
17 you this is when this was last used?

18 A. Correct.

19 Q. Okay. In reconstituting these different forums, what
20 steps do you take to ensure that there isn't any alteration in
21 the data?

22 A. Normally I do not do anything other than making the
23 website accessible and viewable and not -- I don't touch the
24 content of the website.

25 Q. Was there any content when you rebuilt these websites that

1 you had to change?

2 A. Yes, I did. In order for it to make both websites, which
3 are private forums, viewable as well as accessible, I had to
4 change the passwords to the forum members, to the user
5 accounts.

6 Q. You describe these as private forums. What do you mean by
7 that?

8 A. There are two different types of forums. One forum is
9 publicly accessible, which means that anyone can go to the
10 website and read, as well as write and communicate with the
11 members of the forum.

12 A private website, as the name suggests, you need to
13 be a member of that website, of that web forum in order to be
14 able to communicate with the forum members.

15 Q. And both Tibyan and Al-Ansar fell in this latter category,
16 private?

17 A. Yes.

18 Q. Somehow you were able to reset the passwords for everyone
19 so that you could log in as any member?

20 A. Correct.

21 Q. Would the work you did to reconstitute the websites
22 preserve any private messages if that web forum supported that
23 feature?

24 A. Yes, it would.

25 Q. Would it preserve any posts and threads? And I'll have

1 you explain those terms in a minute.

2 A. Yes, it would.

3 Q. I want to focus on Tibyan websites, not Al-Ansar, keep it
4 in English. If you would look at Government's Exhibit, in
5 front of you, it should be 30, 31-A, and then 32 through 39.
6 34 may not be in front of you because it was admitted. In
7 fact, it's over here. Do you recognize the exhibits I just
8 mentioned?

9 A. Yes, I do.

10 Q. Including 34, which is already in evidence, are exhibits
11 30, 31-A, and 32 through 39 all different snapshots of the
12 reconstituted Tibyan websites, the work you did?

13 A. Yes, they are.

14 Q. Any of the data on there change from what would have been
15 visible to a member who had access to either the April or the
16 October or the December 2005 version of Tibyan?

17 A. No.

18 MR. MCBURNEY: At this time the government tenders
19 30, 31-A, 32 and 33, and then 35 through 39.

20 THE COURT: Any objection?

21 MR. SADEQUEE: No.

22 THE COURT: They're admitted.

23 Q. (By Mr. McBurney) Let's look at Exhibit 30. You have a
24 hard copy in front of you and the screen to your left will also
25 have a picture of it. What do we see here in general? What is

1 this a snapshot of?

2 A. This is the log-in page for Tibyan Publications. Anyone
3 who visits the website will be shown this page as the home page
4 of the website.

5 Q. You mentioned earlier, because it's a private forum, you
6 need to enter a user name and a password. This is the screen
7 you were talking about?

8 A. Yes.

9 Q. If you put in a user name, put in Robert McBurney and I'm
10 not a member, after the work you did, could I still get on the
11 website?

12 A. No, you could not.

13 Q. So I have to put in an actual user name?

14 A. Correct.

15 Q. What password after you did your work would I put in if I
16 had an actual user name?

17 A. Password.

18 Q. The word "password"?

19 A. The word "password."

20 Q. Same for any user?

21 A. Correct.

22 Q. Okay. Let's look at 31-A.

23 MR. MCBURNEY: And if you could magnify, sort of
24 right up in here.

25 Q. (By Mr. McBurney) Now, have we logged in? This is a

1 snapshot of the website, have we logged in now?

2 A. Yes, you have.

3 Q. Under what user name?

4 A. You are logged in as Aboo Khubayb al-Muwahhid.

5 Q. So if I typed in that name and the user name and then the
6 word "password" I'm in?

7 A. Yes.

8 Q. It says here "Private messages, one unread, total 39."
9 First tell the jurors what a private message is.

10 A. A private message is personal communication written by the
11 writer of the message to one or more members of the web forum.

12 Q. And this tells you that the text that says "Private
13 messages, one unread, total 39," what about user Aboo Khubayb
14 al-Muwahhid?

15 A. This says that at the time when the data for the website
16 was stored, this account had received one private message that
17 was not read and there were a total of 39 private messages that
18 are in his message -- private message box for that account.

19 Q. Like an inbox for an e-mail account?

20 A. Correct.

21 Q. Okay, but these aren't messages that moved through the
22 Internet; they're contained within the forum?

23 A. Yes.

24 MR. MCBURNEY: If you could magnify and then just a
25 rectangle around the content here.

1 Q. (By Mr. McBurney) These different headers: Technical
2 Team, Knowledge of the Quran, At-Tibyan Releases, what are
3 these called?

4 A. These are forums in the website.

5 Q. So if I were to click on Technical Team, the way you
6 rebuilt this, would I actually get into the Technical Team
7 forum?

8 A. You may, depending on which forum, if they're private
9 forum or not, you may be able to get into it.

10 Q. Okay. Over here there's a heading that says Last Post.
11 It sounds somewhat self-explanatory but let's make sure. What
12 is the Last Post?

13 A. That is the last posted message made to a specific forum
14 at that specific time.

15 Q. So in this third forum down -- I don't remember the name,
16 it doesn't really matter -- who is the user who posted most
17 recently in that forum?

18 A. Abou Khubayb al-Muwahhid.

19 Q. Similarly, whatever the second forum is, somebody named
20 Ibn Umar is the one who posted last?

21 A. Yes.

22 Q. Let's look at Exhibit 33.

23 MR. MCBURNEY: And if you could magnify around that,
24 please.

25 Q. (By Mr. McBurney) This is a blowup of what? We're still

1 logged in as Aboo Khubayb al-Muwahhid. What are we looking at
2 now? It's cut off, it goes further down, but what is that?

3 A. You are now looking at the private message folder for that
4 specific user.

5 Q. It indicates the inbox contains 21 messages, you have 39
6 stored, et cetera. Where would the remaining messages be if
7 they're not in the inbox?

8 A. The remaining 18 private messages would be stored in the
9 outbox, the messages that were written by Aboo Khubayb
10 al-Muwahhid.

11 Q. That he just hadn't deleted yet, copies of what he sent?

12 A. Yes.

13 Q. This very first message, so we can see how it works, this
14 would be a message to Aboo Khubayb al-Muwahhid?

15 A. Yes.

16 Q. From whom?

17 A. Abu Turab.

18 Q. Whoever Abu Turab might be?

19 A. Correct.

20 Q. You're not familiar with any of these user names, are you?

21 A. No, I am not.

22 Q. You weren't asked to look for one user name or the other?

23 A. No.

24 Q. Just rebuild the websites?

25 A. Yes.

1 Q. Let's look at Exhibit 34. The jurors have already seen
2 Exhibit 34, but if you could just walk us through it real
3 quickly. We're in a message inside the Aboo Khubayb
4 al-Muwahhid's box. Who is this message from?

5 A. The original private message was sent by Aboo Hurayrah
6 al-Hindee and then a corresponding message was then replied to
7 by Aboo Khubayb al-Muwahhid and then finally was sent by Abu
8 Turab.

9 Q. So this particular document is a message from Abu Turab to
10 Aboo Khubayb al-Muwahhid?

11 A. Yes.

12 Q. This is what the private messages look like throughout the
13 forum? The content may be different, but this is the format?

14 A. Correct.

15 Q. What's an avatar?

16 A. An avatar is basically a user preference for the person's
17 name, the person's profile.

18 Q. Were there avatars on the Tibyan website?

19 A. Yes, there are.

20 Q. Look at Exhibit 35, please. And if you just -- that's
21 great. All right, we're in a screen, again within the user
22 Aboo Khubayb al-Muwahhid, it's called Edit Avatar. Your
23 Current Avatar, it's two guns crossed over a book.

24 Where would this appear, this image of automatic
25 weapons on top of a book?

1 A. In this instance the avatar, which is the chosen image to
2 represent the user, this image would appear on any of the
3 messages that are associated with this specific user.

4 Q. If Aboo Khubayb al-Muwahhid made a post on Tibyan, would
5 the guns and book appear as part of that post?

6 A. Yes, it would.

7 Q. This is the April 2005 avatar?

8 A. Yes.

9 Q. Let's look at Exhibit 38. Now we've moved to the October
10 2005 Tibyan that you reconstituted and we're again in Aboo
11 Khubayb al-Muwahhid. Different avatar?

12 A. Yes.

13 Q. Do you know who this person is in the picture?

14 A. No, I do not.

15 Q. And Exhibit 37, this is the log-in page for Aboo Khubayb
16 al-Muwahhid in October '05. What's different about the private
17 message entry?

18 A. There are substantially a lot more private messages in the
19 inbox, in the private message folder.

20 Q. If we go back to the main exhibit, again we have forums
21 and the last posting in those forums?

22 A. Yes.

23 Q. But that would be as of October?

24 A. Yes, correct.

25 Q. All right. And finally we talked about posts and threads

1 before, I want you to talk about that.

2 MR. MCBURNEY: If you would put up Exhibit 39,
3 please. And if you could magnify the actual post.

4 Q. (By Mr. McBurney) All right, is this a posting as opposed
5 to a private message?

6 A. Yes, it is.

7 Q. And it's a post by?

8 A. Aboo Khubayb al-Muwahhid.

9 Q. And you have his avatar, this unknown person, and the
10 title of the post is Plan B. It talks about whatever it talks
11 about. You mentioned something about an electronic signature.
12 Is there an electronic signature on this posting?

13 A. Yes. The last two parts of the message in the red and in
14 orange.

15 Q. The "O Allah! Sell us your mercy at the price of our
16 blood," and the lines beneath it which are hard to read in the
17 yellow, that's something that would appear on any post Aboo
18 Khubayb al-Muwahhid made?

19 A. Yes.

20 Q. That's not something unique to the text of this message?

21 A. No.

22 Q. Now, that's a post. Explain to the jurors what a thread
23 is.

24 A. A thread basically is a collection of posts which were
25 written in response to the opening post.

1 So in this case, Plan B, which is a thread, the
2 opening post was written by Aboo Khubayb al-Muwahhid and
3 subsequent posts would then make up the thread of the whole
4 thread.

5 Q. Okay.

6 MR. MCBURNEY: Is it a multiple-page exhibit in your
7 system? Can we look at page 2 of Exhibit 39?

8 Q. (By Mr. McBurney) In your hard copy it should be there.
9 So the first page was Plan B. If we scroll past that.

10 MR. MCBURNEY: And if you could magnify, please, the
11 second post.

12 Q. (By Mr. McBurney) So you're talking about a thread. What
13 is this next document that, if you were on the screen, if you
14 scroll down, would it be directly below the original post, Plan
15 B?

16 A. Yes. This is the first response to the initial post, the
17 opening post of the thread and this was written by Ibn Umar.

18 Q. By Ibn Umar, someone at At-Tibyan.com?

19 A. Yes.

20 MR. MCBURNEY: If you could show the last one.

21 Q. (By Mr. McBurney) So this -- does the thread grow?
22 Someone named Abu Dujanah posts something?

23 A. Yes, sir.

24 Q. Okay, and then he's got a statement about Allah and
25 learning how to die. Is that a signature as well?

1 A. Yes, it is.

2 Q. Mr. Boonyasait, did you do this same type of work for the
3 Al-Ansar forums, the reconstitution and resetting the password
4 to the word "password"?

5 A. Yes, I did.

6 Q. So that any user name, that account would be accessible to
7 an agent who wanted to explore the site?

8 A. Correct.

9 Q. Give me one second.

10 (Pause in the proceedings.)

11 Q. (By Mr. McBurney) Were you able to tell by looking at the
12 structure of al-Ansar, I understand it's in Arabic, whether it
13 was set up the same way? Meaning forums, posts, threads,
14 inboxes, et cetera.

15 A. Structurally they look very similar, the same.

16 Q. Okay, content we don't know, but what you've described in
17 terms of navigating the Tibyan website, the Al-Ansar appeared
18 similar to you?

19 A. Yes.

20 Q. Thank you very much.

21 THE COURT: Mr. Sadequee?

22 MR. SADEQUEE: No questions.

23 THE COURT: Does anybody want this witness subject to
24 recall?

25 MR. MCBURNEY: No, sir.

1 MR. SADEQUEE: No.

2 THE COURT: We appreciate very much your testimony
3 but you should not discuss it with anybody until you hear that
4 the case is complete.

5 THE WITNESS: Okay.

6 THE COURT: Thank you for being with us.

7 Call your next witness, please.

8 MR. BLY: Government calls Michael Williamson.

9 THE COURT: Please come forward and stand in the
10 witness box, I'll have you sworn in.

11 THE COURTROOM DEPUTY: Please raise your right hand.

12 MICHAEL WILLIAMSON,
13 being first duly sworn or affirmed, was examined and testified
14 as follows:

15 THE COURTROOM DEPUTY: Please be seated.

16 DIRECT EXAMINATION

17 BY MR. BLY:

18 Q. Good afternoon, sir.

19 A. Good afternoon.

20 Q. If you could, please state your name for the jury.

21 A. My name is Michael Williamson.

22 Q. Mr. Williamson, how are you currently employed?

23 A. I'm a special agent with the Federal Bureau of
24 Investigation.

25 Q. How long have you been with the FBI?

1 A. Approximately five years.

2 Q. Are you assigned to a particular area within the FBI?

3 A. I'm assigned to the Joint Terrorism Task Force.

4 Q. How long have you been on the Joint Terrorism Task Force?

5 A. The same amount of time, the whole time I've been in
6 Atlanta.

7 Q. The whole five years?

8 A. Yes.

9 Q. Agent Williamson, are you one of the case agents on
10 Defendant Sadequee's case?

11 A. I'm not the case agent.

12 Q. Are you one of the agents that has worked on the case?

13 A. Yes, I am.

14 Q. Throughout the course of your investigation, have you come
15 to learn when Defendant Sadequee was born?

16 A. He was born in July of 1986.

17 Q. Do you know where he was born?

18 A. In the state of Virginia.

19 Q. Do you know where his family is from?

20 A. Originally from Bangladesh.

21 Q. Agent Williamson, throughout the course of your
22 investigation, have you had the chance to review documents that
23 you have -- that you've recovered in the course of this
24 investigation?

25 A. Yes.

1 Q. For example, there's been testimony already about
2 documents recovered from various computers and hard drives and
3 things like that. Have you had a chance to review those kind
4 of documents?

5 A. Yes, I have.

6 Q. On the table in front of you there is a stack of documents
7 marked as Government's Exhibits 40 through 58 and 60, and then
8 a whole bunch of As and Bs. There's a 46-A and B, 47-A and B,
9 48-A, 49-A, 50-A, B, and C, 53-A, 54-A, 55-A, 56-A, 57-A, 58-A,
10 and 60-A and B, ask if you could take a look at those
11 documents.

12 A. Yes.

13 Q. Agent Williamson, are those documents that you've reviewed
14 prior to coming in and testifying today?

15 A. Yes, they are.

16 Q. And are those documents that you have reviewed, most of
17 which are communications, are those documents that you have
18 reviewed throughout the course of your investigation on this
19 case?

20 A. Yes, it is.

21 MR. BLY: Your Honor, I tender Government's Exhibits
22 40 through 58, 60, and then 46-A and B, 47-A and B, 48-A, 49-A,
23 50-A, B and C, 53-A, 54-A, 55-A, 56-A, 57-A, 58-A, and 60-A and
24 B.

25 THE COURT: Any objection?

1 MR. SADEQUEE: No.

2 THE COURT: They're admitted.

3 Q. (By Mr. Bly) Agent Williamson, if we could, we're going
4 to go pretty much in order with one exception. So if you've
5 got them in numerical order, if we could take a look at Exhibit
6 40.

7 MR. BLY: Your Honor, this is Exhibit 40 which we
8 have discussed previously.

9 Q. (By Mr. Bly) Agent Williamson, if you could take a look
10 at Exhibit 40, this appears to be an e-mail. Is there an
11 indication as to who this e-mail is from and to?

12 A. Yes, it is.

13 Q. Who is that?

14 A. It's to azzam2000@e-mail.com from Shifa Sadequee,
15 sadshifa@hotmail.com.

16 Q. What's the subject and date of this e-mail?

17 A. The subject is: "Salaam, I need to go to Afghanistan."
18 The date is Wednesday, December 5th of 2001.

19 Q. Do you know how this document was obtained? I notice the
20 date on there is a lot earlier than most of what the other
21 documents that we're going to be looking at. Do you know how
22 this was obtained?

23 A. This document was obtained by a search warrant that was
24 served on the Yahoo! company for all Yahoo! e-mails that were
25 sent to the website www.Azzam.com.

1 Q. Let's go ahead and take a look at the first paragraph of
2 this e-mail and what does Sad Shifa or Shifa Sadequee say in
3 that first paragraph?

4 A. "Salaam, my name is Shifa Ehsanul Islam Sadequee. I'm
5 writing to you because I need to go to Afghanistan to join the
6 Taliban, insha'Allah. I need your help, or any information
7 that you can give me that may help me do this. I trust on you
8 on this matter. Let me tell you my situation."

9 Q. Does Shifa Sadequee in the course of this e-mail say how
10 old he is when he's writing this?

11 A. He does.

12 Q. And how old is he?

13 A. 15-1/2.

14 Q. And do you know, based on the time frame, where he was
15 when he was writing this?

16 A. In Bangladesh.

17 Q. Okay. Let's skip down to the, I guess, second full
18 paragraph that begins with "I hope." If you could read the
19 first two lines there.

20 A. "I hope you are able to give me support, insha'Allah. I
21 always had intention of joining the Taliban, even prior to
22 September 11th, but I hadn't because I thought that they were
23 in good condition."

24 Q. Thank you, that's fine for that. If we could also just
25 skip down to the very last paragraph, the one that begins with

1 "I believe." Go ahead and read that.

2 A. "I believe that this is a test from Allah to see who will
3 respond to his invitation for jihad, behind which is Jannah
4 itself. Like I said, I trust you that you will help me with
5 anything that you have. Or at least direct me to
6 persons/organizations in Bangladesh that are helping people go.
7 Please mail me ASAP at sadshifa@hotmail.com. And may Allah
8 reward you for your effort to proclaim his truth."

9 Q. When did this e-mail fall date-wise in relation to 9-11?

10 A. This e-mail fell approximately just under three months
11 after September 11th.

12 THE COURT: I'd like to give the jury a limiting
13 instruction for your consideration of this e-mail.

14 The government has introduced this e-mail, which is
15 authored by the defendant. The Court has admitted this
16 evidence for a limited purpose. Specifically, the statement
17 may be considered by you only on the issue of defendant's
18 motive, opportunity, intent, preparation, plan, knowledge,
19 identity, or absence of mistake or accident in connection with
20 the charges in this case.

21 Q. (By Mr. Bly) Agent Williamson, if we could, let's go
22 ahead and take a look at Government's Exhibit 41. It's an
23 e-mail from almuwahhid@yahoo.com. Who is the e-mail sent to?

24 A. E-mail is sent to al-Muwahhid@yahoo.com.

25 Q. I'm sorry, I misspoke, that's who it's to. Who is it

1 from?

2 A. Admin@tibyanpubs.com.

3 Q. Are you familiar with something called Tibyan
4 Publications?

5 A. I am.

6 Q. What is Tibyan Publications?

7 A. Tibyans Publications is a password-protected website that
8 has posted articles in English and other translated languages.
9 It also offers members the ability to communicate by e-mail or
10 chat.

11 Q. And when was this e-mail sent?

12 A. This e-mail was sent on Sunday, November 21st, 2004.

13 Q. What's the subject line?

14 A. "You have been added to this user group."

15 Q. What's the first sentence of the e-mail?

16 A. "You have been added to the Brothers group on At-Tiby257
17 Publications."

18 Q. And on the bottom of that is there, that e-mail, is there
19 a website indicated?

20 A. There is a website indicated.

21 Q. What is that website?

22 A. www.tibyanpubs.com.

23 Q. Let's take a look at Government's Exhibit 42. What's the
24 information on the top of this, the From, the To, date,
25 et cetera?

1 A. This e-mail is from admin@tibyanpubs.com to
2 almuwahhid@yahoo.com, sent on January 5th, 2005, and the
3 subject is: "From Abu Umar from At-Tibyan Publications."

4 Q. We've seen this name a bunch now, but just to refresh
5 everybody's memory, almuwahhid@yahoo.com, do you know what
6 e-mail address, who that's associated with?

7 A. That's associated with Defendant Sadequee.

8 Q. It looks like on this e-mail there's some lines that are
9 in blue and italics. I think the first one and maybe the
10 second or third line, if we can just blow that up. Were those
11 blue and italics, were those there when you first viewed this
12 e-mail as part of your investigation?

13 A. No, they were not.

14 Q. Do you know what the blue italicized writing indicates?

15 A. It's the translation.

16 Q. Is that a translation that you did?

17 A. No, it's not. A translator with the Federal Bureau of
18 Investigation translated this.

19 Q. So that's just translating the non-English words into
20 English; is that right?

21 A. That is.

22 Q. Let's look at the first line of this e-mail after the
23 translation beginning with the word "To." What is that first
24 sentence?

25 A. "To the administration team of At-Tibyan Publications."

1 Q. Did you get a feeling for what -- who -- what this e-mail
2 is?

3 A. Yes.

4 Q. If you could, describe to the jury what this e-mail is.

5 A. This e-mail was sent to the members of the administration
6 team of At-Tibyan Publications, and more specifically the
7 moderators. It told them that they may not always agree with
8 what's posted on the website, and, if they don't agree, to be
9 respectful to their fellow Muslim.

10 Q. So this e-mail that was sent to the administration team of
11 At-Tibyan Publications. Did it end up in Defendant Sadequee's
12 e-mail?

13 A. Yes.

14 Q. Let's take a look at one more Tibyan e-mail. Let's take a
15 look at Government's Exhibit 43, which is actually two e-mails.
16 If you could, let's start by looking at the e-mail on the top,
17 the first part of the page, and if you could run through the
18 To, From, Subject and date information for that one.

19 A. It's to almuwahhid@hotmail.com from tahreek@librabd.net.
20 Subject is a reply, "Assalamu-Alaikum," and the date is
21 Thursday, July 7th, 2005.

22 Q. Go ahead and read the first two lines or the first two
23 paragraphs there of that top portion of the e-mail.

24 A. "Assalamu-Alaikum, [peace be upon you]. Thank you for
25 your e-mail message regarding the subject: "Assalamu-Alaikum,

1 [peace be upon you]. Insha'Allah, [God willing], we will
2 respond to it as quickly as we can. For your reference, the
3 text of your message is added at the end of this e-mail."

4 Q. "The text of your message which is added at the end of
5 this e-mail," what is that referring to?

6 A. It looks like from the bottom was the original e-mail
7 message sent to tahreek@librabd.net and the top part is an auto
8 response back.

9 Q. Who sent that original message, now the message that is on
10 the bottom half of that sheet of paper?

11 A. Almuwahhid@hotmail.com.

12 Q. Beginning with the line that says, "Dear beloved
13 Brothers," what does he say in that e-mail?

14 A. "Dear beloved Brothers: I am one of the brothers from
15 At-Tibyan Publications. I would like to ask you brothers to
16 please translate material regarding jihad against the
17 Murtaddeen, [the apostates], and, Kfur bit-Taaghoot,
18 [disbelievers in idols], and Haakimiyyah, [authority], and
19 Muwaalaat, [supporting], Al-Kuffaar, [the nonbelievers]."

20 Q. And again, I think this e-mail has got some of the same
21 issues that we saw with the earlier one with the blue
22 italicized writing, we'll see that come up throughout. Is it
23 your understanding that always represents a translation that
24 was not part of the original document?

25 A. That's correct.

1 Q. Agent Williamson, let's go ahead and take a look at
2 Government's Exhibit 44 and 44 -- no, just 44, there are no
3 letter attachments also with that one. And, Agent Williamson,
4 if you could go ahead and run through the From, To, Subject and
5 date information on that e-mail.

6 A. This e-mail is from almuwahhid@yahoo.com sent to
7 almuwahhid @yahoo.com. The date is Wednesday, October 6, 2004,
8 the subject is "amira."

9 Q. Looks to me like this is an e-mail from and to the same
10 person; is that right?

11 A. That's correct.

12 Q. Do you have any idea why that would be the case?

13 A. The only idea I can think of is the attachments that are
14 on here were downloaded from one location and you didn't have
15 access to them at that location so you would send them to your
16 e-mail, so when you're at a different location you can go back
17 out.

18 Q. Does the e-mail indicate that there are attachments?

19 A. It does.

20 Q. Without going into them specifically, what are the
21 attachments to this e-mail?

22 A. These attachments, there's a lot of pictures of Osama bin
23 Laden, pictures of aircraft, vehicles, weapons.

24 Q. We're not going to look at all of them but we'll look at a
25 few. If we could pull up the one that's got 979 on the bottom

1 of it. Agent Williamson, do you recognize the person depicted
2 in that photo?

3 A. I do.

4 Q. Who is that?

5 A. Osama bin Laden.

6 Q. As an FBI agent detailed to the Joint Terrorism Task
7 Force, is that a person whose photo and likeness you're
8 familiar with, even prior to this investigation?

9 A. Yes, it is.

10 Q. Let's go ahead and take a look at the photo with the
11 number 984 at the bottom. Who is that?

12 A. That is Osama bin Laden with what appears to be a gun or
13 some type of weapon leaning next to him.

14 Q. We'll look at one more, number 992 at the bottom of the
15 page. Is that the same person depicted in that photo?

16 A. It is Osama bin Laden with what appears to be a gun or
17 some type of weapon laying in his lap.

18 Q. Agent Williamson, let's go ahead and take a look at
19 Government's Exhibit 45. What is Government's Exhibit 45?

20 A. This document is from the Yahoo! company showing
21 subscriber information for the e-mail address
22 piddikashorba@yahoo.com.

23 Q. Does it also list a login name for that account?

24 A. The login name, yes.

25 Q. And what is that?

1 A. Piddikashorba.

2 Q. Does it show who the person is that registered for this
3 account?

4 A. Yes, it does.

5 Q. Who is that?

6 A. Mr. Syed Ahmed.

7 Q. Does it list any geographic location for that person?

8 A. Yes, it does, the city of Roswell, state of Georgia, and
9 country of United States.

10 Q. Does it indicate a date of birth for Mr. Syed Ahmed?

11 A. It does.

12 Q. What is that?

13 A. December 9th, 1984.

14 Q. Thank you. Let's go ahead and take a look at Government's
15 Exhibit 46. This looks like another e-mail. If you could run
16 through the To, From, Date and Subject line of this e-mail.

17 A. This e-mail is from a almuwahhid@yahoo.com to
18 piddikashorba@yahoo.com, sent on Monday, November 15th, 2004,
19 and the Subject is "Fundamental Concepts of G-Had."

20 Q. Let's put some names with those e-mail addresses.
21 Almuwahhid@yahoo.com is the defendant, correct?

22 A. Correct.

23 Q. Who is piddikashorba@yahoo.com?

24 A. Mr. Syed Ahmed.

25 Q. And does this e-mail indicate whether there are any

1 attachments?

2 A. It does indicate that there are attachments.

3 Q. And what are those attachments?

4 A. The Fundamental Concepts of G-Had and About the Shaykh who
5 wrote it.

6 Q. Let's take a look at the Subject line for a second. It's
7 titled Fundamental Concepts of G-Had. How is G-Had spelled in
8 this document?

9 A. G-H-a-d.

10 Q. Is that a typical way of spelling the word?

11 A. No.

12 Q. How is it normally spelled?

13 A. J-i-h-a-d.

14 Q. If someone was to search for the word "jihad" in whatever
15 computer or database contains this e-mail and they put in the
16 common spelling, would they have found this e-mail?

17 A. No, they would not.

18 Q. Let's take a look at Exhibit 46-A, which is one of the
19 attachments to that e-mail. What is the title of the document
20 shown in Government's Exhibit 46-A?

21 A. The title is Fundamental Concepts Regarding Al-Jihad.

22 Q. Does it indicate who the author of that document is?

23 A. It does.

24 Q. Who is that?

25 A. By the Noble Shaykh, Abdul-Qadir Ibn Abdul-Aziz.

1 Q. And does it indicate where that document was published?

2 A. Published at At-Tibyan Publications.

3 Q. Let's take a look at Government's Exhibit 46-B, which is
4 another attachment to that same e-mail. What is Government's
5 Exhibit 46-B?

6 A. It's a "Brief Introduction to the Virtuous Scholar
7 Abdul-Qadir Ibn Abdil-Aziz."

8 Q. Is that the same person who authored the document shown in
9 Government's Exhibit 46-A?

10 A. Yes, it is.

11 Q. Let's take a look at Government's Exhibit 47, another
12 e-mail. If you could run through the sender, receiver, date
13 and subject for this e-mail?

14 A. From almuwahhid@yahoo.com to piddikashorba@yahoo.com, sent
15 on Monday, November 15th, 2004, and the subject is: "Forward,
16 Tibyan and Millat."

17 Q. Does it indicate whether there are attachments to this
18 e-mail?

19 A. Yes, it does.

20 Q. Let's take a look at the first attachment, which is
21 Government's Exhibit 47-A. If you could read the title of the
22 text attached, first text attached to this e-mail?

23 A. "Millat Ibrahim (The Religion of Ibrahim) and the Calling
24 of the Prophets and Messengers and the Methods of the
25 Transgressing Rulers in Dissolving it and Turning the Callers

1 Away from it."

2 Q. Who is the author of this text?

3 A. Abi Muhammad Asim Al-Maqdisi.

4 Q. If we could, let's take a look at Government's Exhibit
5 47-B, which is the second attachment to this e-mail, another
6 text. What's the title of this text?

7 A. "The Exposition Regarding the Disbelief of the One that
8 Assists the Americans."

9 Q. And who authored this text, 47-B?

10 A. Shaykh Nasir bin Hamad al-Fahd.

11 Q. Let's take a look at Government's Exhibit 48, another
12 e-mail. Who is the sender and receiver, subject line, and date
13 for this e-mail?

14 A. From abeumar@thadiq.com to almuwahhid@hotmail.com, sent on
15 Thursday, February 3rd, 2005, and the subject, "Test."

16 Q. Let's go ahead -- first of all, it was sent to
17 almuwahhid@hotmail.com. Who is that?

18 A. The Defendant Sadequee.

19 Q. And the From is from somebody named Abe Umar. Do you know
20 who Abe Umar is?

21 A. Yes, Aabid Hussein Khan.

22 Q. Let's go ahead and take a look at the attachment of that
23 e-mail, which is Government's Exhibit 48-A. If we can look at
24 the top of that to begin with, if you could go ahead and read
25 the first sentence?

1 A. "This information should not leave the tibyanpubs circle,
2 only for those who are involved, as it may expose some brothers
3 even more to danger than currently."

4 Q. What's the last sentence of that same paragraph?

5 A. "Keep all information between yourselves and take
6 precautions online and offline."

7 Q. It goes on to list below that some inquiries that were
8 made. If you could go ahead and read the numbers that are
9 depicted by 1 and 2?

10 A. Number 1: "We're from an organization and we wanted to do
11 a survey. We wanted to know how you feel about Canadian
12 soldiers sent to Afghanistan since you're from there. When the
13 sister asked which organization they replied along the lines
14 of, 'it's confidential.'"

15 Number 2: "They came and asked simple questions about
16 Tibyan, his friends, the masjid," which is mosque. "If they're
17 ever visited by them, they'll most probably be asked similar
18 questions. And those are simple ones, answers to them are
19 simple as well."

20 Q. Let's take a look at the last page of that attachment.
21 Did the author include a note and then a P.S. that they put
22 with this?

23 A. Yes.

24 Q. What do they say in the note?

25 A. The note: "One should refuse in a calm manner to talk to

1 anyone and teach their family to not answer or give correct
2 information as out of panic, people tend to answer or answer
3 more than ever asked."

4 The P.S.: "In case you were thinking about it, don't
5 freak out and do haphazard things."

6 Q. And just to be clear, this document, back to the first
7 line, who was it intended for?

8 A. It was intended for those involved in Tibyan Publications.

9 Q. Agent Williamson, let's go ahead and take a look at
10 Government's Exhibit --

11 THE COURT: Before we go to the next exhibit, can we
12 take a very short break so I can address a note I received?

13 MR. BLY: Certainly.

14 THE COURT: Let's break for ten minutes. We'll be
15 back in at 25 after. Of course, don't discuss the case with
16 anybody because the evidence is still coming in. We'll be in
17 recess for ten minutes.

18 (Jury retired from the courtroom.)

19 THE COURT: Anything we need to discuss before we
20 break?

21 MR. BLY: Nothing from the government.

22 THE COURT: This is not related to the case, it's
23 just something that needed to be taken care. It will just take
24 a couple of minutes.

25 (Recess, 3:16 p.m. to 3:28 p.m.)

1 THE COURT: Anything we need to take up before we
2 bring the jurors back in?

3 MR. BLY: Nothing from the government, Judge.

4 THE COURT: Mr. Sadequee, anything from you?

5 MR. SADEQUEE: (Shakes head.)

6 THE COURT: Bring the jurors in.

7 (Jury returned to the courtroom.)

8 THE COURT: Ladies and gentlemen, we're still on
9 Agent Williamson's direct examination.

10 Please continue.

11 Q. (By Mr. Bly) Agent Williamson, before we took a break we
12 were about to look at Government's Exhibit 49, if you can go
13 ahead and look at that. It looks like we've got another
14 e-mail. Who are the From, To, Sent and Subject line for this
15 e-mail?

16 A. From sadshifa@yahoo.com to sadshifa@yahoo.com, sent on
17 Tuesday, February 8, 2005, the subject is "safy."

18 Q. Does that e-mail indicate whether there is an attachment?

19 A. It does.

20 Q. Let's take a look at Government's Exhibit 49-A, which is
21 the attachment to that e-mail. We've seen a bunch of e-mail
22 communications. Is this a different kind of communication?

23 A. This is a chat.

24 Q. And by looking at this chat can you tell who the
25 participants are in this conversation or chat?

1 A. Yes, you can.

2 Q. Who's talking here in this chat?

3 A. Aboo Khubayb Al-Muwahhid and Safiullah.

4 Q. And we know an Aboo Khubayb Al-Muwahhid is Defendant
5 Sadequee, and he's talking to someone named Safiullah; is that
6 right?

7 A. That is correct.

8 Q. Let's go ahead and take a look at the first page of that
9 chat, skip down about three-quarters to the line that begins,
10 "So akhee." If you could read from that line down to the
11 bottom of the page.

12 A. Aboo Khubayb Al-Muwahhid says: "So, akhee, Aboo Turaab
13 tells me he sent you an e-mail regarding some books to read."

14 Safiullah says: "Yeah, I realized when he left,
15 yeah, he did. And I'm reading the material."

16 Aboo Khubayb Al-Muwahhid says: "Did he give you
17 Millat Ibraaheem, The Truth Faith of Abraham?"

18 Safiullah says: "Yeah."

19 Q. In reading this, do you know who Aboo Turaab, who that
20 refers to?

21 A. Yes.

22 Q. Who does that refer to?

23 A. Syed Ahmed.

24 Q. Okay. Let's skip over to page 4 of that chat, about
25 halfway down, the line that begins, "Yeah, sorry," if you could

1 read the four lines.

2 A. Safiullah says: "Yeah, sorry, I was waiting for the page
3 to come up. We third worlders use dial ups [sic], slow as a
4 snail."

5 Aboo Khubayb Al-Muwahhid says: "It's okay,
6 insha'Allah, I use dial-up at my home also."

7 Q. Based on the part of this chat that came before that
8 conversation, did it appear that the two folks who were
9 chatting were having some technical difficulties?

10 A. Yes, it does.

11 Q. And do you know what -- Aboo Khubayb Al-Muwahhid refers to
12 dial-up. Do you know what that's a reference to?

13 A. Yes. That's a reference to the way this computer accesses
14 the Internet, it's through a telephone line.

15 Q. Let's go and move over to page 5 of that chat, about a
16 quarter of the way down, the line that begins, "I heard you
17 like to read fiction novels," go ahead and start reading. I'll
18 stop you when we get to a good stopping point.

19 A. Aboo Khubayb Al-Muwahhid says: "I heard you like to read
20 fiction novels."

21 Safiullah says: "Who said that?"

22 Aboo Khubayb Al-Muwahhid says: "Aboo Turaab. I hope
23 you can give at least a few hours a day to read regarding
24 Islam. Tawheed, al-Walaa wal-Baraa, Riddah, Haakimiyyah,
25 et cetera."

1 Safiullah says: "Yeah, I do."

2 Aboo Khubayb Al-Muwahhid says: "Insha'Allah."

3 Safiullah says: "Sorry, bro, I must have
4 disappointed you."

5 Aboo Khubayb Al-Muwahhid says: "What? No, akhee,
6 it's nothing like that. It's just that Aboo Turaab has a lot
7 of hope for you to become firm on this path, in terms of
8 Manhaj, Aqeedah, and acting on the path of Ibraaheem and from
9 what I have experienced in this Da'wah, it first is important
10 to learn our Fundamental Principles which we live for, struggle
11 for, kill for, and die for."

12 Q. Let's back up a little bit and look, one of those lines
13 had some translations, the line that says, "Tawheed, al-Walaa,"
14 what are the subjects or the translations for those subjects
15 there that Defendant Sadequee was referring to in this chat?

16 A. "Monotheism, loyalty, and disassociation, loyalty to
17 follow Muslims and to disassociate from nonbelievers."

18 Q. Skip over to page 6 of that chat, the conversation
19 continues. Skip down about four, five lines from the top, the
20 line that begins, "Just like that, before someone begins," and
21 go ahead and read for the jury that portion of their
22 conversation.

23 A. Aboo Khubayb Al-Muwahhid says: "Just like that, before
24 someone begins the struggle, it is obligatory to know the
25 principles. Why should we fight? For what are we fighting?"

1 What's wrong if we don't fight? How much do we have to fight?
2 Against whom? Ally with whom? Until when? Some people get
3 mad or upset if we fight against the murtadd regimes, like
4 Saudi, Egypt, Pakistan, Indonesia, et cetera. The regimes are
5 murtadd. Allah has obligated the qatl of the murtaddeen more
6 than that of the Kaafir Aslee. A person is not a Muslim if he
7 does not hate the kuffaar. There are many things, akhee. When
8 many of the brothers begin on this noble path."

9 Safiullah says: "You are right."

10 Aboo Khubayb Al-Muwahhid says: "And they begin to
11 learn the Deen in the Light of the Quran and Sunnah. They
12 learn that they were probably not even Muslim before. This
13 happened to me and some of the other brothers also. Even
14 though we used to pray Salaat and fast Ramadhaan before but
15 still, I look back and I say, 'I seek refuge with Allah, I was
16 a kaafir at that time.' Salaat, Siyaam, keeping a beard,
17 et cetera. What are all these for? There is a cause behind
18 this all, a goal. Islam isn't just Salaat. Islam isn't
19 confined to the Masjid or just to Ramadhaan. Some ignorant
20 juhhaal say, 'Islam means peace.' Wallaahul-Musta'aan! Islam
21 does not mean peace."

22 Safiullah says: "Hahaha, not -- it does n-t."

23 Aboo Khubayb Al-Muwahhid says: "Islam is the
24 language and in the Sharee'ah means, equals 'submission.'"

25 Q. Thank you. You referred a couple of times in there to the

1 word "kuffaar." How is that translated? It appears on the
2 fourth or fifth line down there on page 7.

3 A. Nonbeliever.

4 Q. Let's go ahead and take a look at Government's Exhibit 50,
5 another e-mail. Who are the sender, receiver, date and subject
6 for this e-mail?

7 A. From abe_umar@yahoo.com to almuwahhid@hotmail.com, sent on
8 Wednesday, February 23rd, 2005, and subject is "file."

9 Q. Does it indicate whether there are attachments to this
10 e-mail?

11 A. Yes, it does.

12 Q. Let's go ahead and take a look at the attachments. The
13 first is Government's Exhibit 50-A. Government's Exhibit 50-A,
14 is there any part of that document other than what has been
15 translated at the very bottom that's in English?

16 A. No, there's not.

17 Q. Do you read Arabic?

18 A. No, I do not.

19 Q. Based on the translation, what is the title of
20 Government's Exhibit 50-A?

21 A. *Techniques of Interrogation in the Prisons of the Israeli*
22 *Enemy, and Ways to Deal with Them.*

23 Q. Take a look at Government's Exhibit 50-B. Is this another
24 attachment to that e-mail, again, that was all in Arabic?

25 A. Yes, it is.

1 Q. What's the translated title for this document?

2 A. *Security Lessons for the Mujahideen, Interrogation,*
3 *Reasons, Stages and Techniques, How to Face Interrogators and*
4 *to Resist Law Enforcement.*

5 Q. Just to be clear, this is an e-mail that was sent to
6 Defendant Sadequee; that's correct?

7 A. That is correct.

8 Q. Let's take a look at Government's Exhibit 50-C, which is
9 the third and final attachment to that e-mail. Again, do we
10 have a document written all in something other than English?

11 A. Yes.

12 Q. What's the translated title of this text?

13 A. *The Secret Calling Prepared by the Judicial Committee of*
14 *the Jihad Organization.*

15 Q. Let's take a look at Government's Exhibit 51, another
16 e-mail. This one doesn't have a subject but who's the From, To
17 and date for this e-mail?

18 A. From al-muwahhid@hotmail.com to almuwahhid@hotmail.com
19 sent Wednesday, April the 6th, 2005.

20 Q. We have seen that almuwahhid@hotmail.com a fair bit but
21 to, the recipient on this e-mail, that's Defendant Sadequee.
22 The From looks similar. Is there a difference in that From
23 address than the almuwahhid@hotmail that we've been used to
24 seeing?

25 A. Yes, there is.

1 Q. What's the difference?

2 A. There is a dash after "al."

3 Q. So same group of letters but between the "al" and the
4 "Mawahhid" we have a dash?

5 A. Yes, we do.

6 Q. Do you know who is associated with the
7 al-muwahhid@hotmail.com?

8 A. Yes, I do.

9 Q. Who is that?

10 A. Syed Ahmed.

11 MR. BLY: With the Court's permission, Mr. McBurney
12 has gotten a few more e-mail addresses and monikers, if we can
13 maybe populate Government's Exhibit 1.

14 THE COURT: You may.

15 Q. (By Mr. Bly) Agent Williamson, while Mr. McBurney is
16 doing that, if you can go ahead and read what Syed Haris Ahmed
17 says in this one.

18 A. "Hey, man, how come you never told me about tibyan.net?
19 They sell pretty nice stuff openly. I mean even the wasaya of
20 the 19. Are they related to Tibyan or nor? Wasalam."

21 Q. And if we could look at Government's Exhibit 52, who's
22 this from and to and the date for this e-mail?

23 A. This is from almuwahhid@hotmail.com to
24 al-muwahhid@hotmail.com, sent on Thursday, April the 7th, 2005,
25 and the subject is a reply.

1 Q. Where does this fall in time in relation to the e-mail we
2 just looked at in Government's Exhibit 51?

3 A. This e-mail was sent the very next day.

4 Q. Does it appear to be a response to Government's Exhibit
5 51?

6 A. It does.

7 Q. Okay. And this one, which is authored by
8 almuwahhid@hotmail.com, Defendant Sadequee, what does he say?

9 A. "They aren't directly related. They sell some of Abul-M's
10 lectures. And they were originally supposed to publish Millatt
11 and Tibyan by Nasir al-Fahd, but they didn't have funding.
12 They get raided every other week. I thought you knew about
13 them, Azzaam Pubs always used to advertise about them, they
14 were originally known as Maktabah, but then they changed their
15 name to coincide with Tibyan Pubs, I think Allaahu A'lam. Did
16 you get Falook's reply?"

17 Q. We heard about this name earlier in the day, but who is
18 Falook?

19 A. Omer Kamal.

20 Q. Let's look at Government's Exhibit 53. Who is the sender
21 and receiver, date and the subject line for Government's
22 Exhibit 53?

23 A. From ibnul_khattab82@yahoo.com to almuwahhid@hotmail.com,
24 sent on Wednesday, April the 20th, 2005, the subject is
25 "Ibtilaa."

1 Q. Does it indicate whether there's an attachment to the
2 e-mail shown in Government's Exhibit 53?

3 A. Yes, it does.

4 Q. Let's take a look at Government's Exhibit 53-A, which is
5 that attachment. What's the title of this text?

6 A. *Such are the Messengers Tested, and the Outcome Will Be in*
7 *Their Favor.*

8 Q. Does it indicate who the author of that text is?

9 A. Yes, it does.

10 Q. Who is that?

11 A. By the Shaykh, the Commander Abu Mus'ab az-Zarqawi.

12 Q. Do you know who az-Zarqawi is?

13 A. Yes.

14 Q. Who is that?

15 A. Zarqawi was the leader of Al Qaeda in the country of Iraq.

16 Q. Let me go a little bit out of order here. Take a look at
17 Government's Exhibit 60. What is Government's Exhibit 60?

18 A. This is a document that was found on a hard drive of
19 Waseem Mughal's computer.

20 Q. Do you know who Waseem Mughal is?

21 A. Yes, I do.

22 Q. Who is Waseem Mughal?

23 A. Waseem Mughal was an individual who was associated with
24 the counterterrorism investigation in the United Kingdom.

25 Q. And you said this was a document recovered from his

1 computer?

2 A. Yes.

3 Q. What is the title of this document?

4 A. *The Ruling Regarding Killing One's Self to Protect*
5 *Information.*

6 Q. Did you undertake any investigation to determine where
7 this document was originally created? I know you said it was
8 found on Waseem Mughal's hard drive in the UK. Did you do
9 anything to determine where it was originally created?

10 A. Yes.

11 Q. What did you do?

12 A. Well, this document was opened up in a Microsoft Word and
13 we looked at the Properties tab, which shows the author, when
14 it was created, the title, et cetera.

15 Q. Let's go ahead and take a look at Government's Exhibit
16 60-A, focus in on that box. What is Government's Exhibit 60-A?

17 A. This is a computer screen snapshot of the document in
18 Exhibit 60 opened up in Microsoft Word.

19 Q. You were talking before about the Properties. What are
20 the Properties box or the Properties function on that document,
21 what does it tell you?

22 A. It's a tab that will show -- that will give you general
23 information. As I said, the title, when it was created, who it
24 was created by, if it was at a specific company it will tell
25 you that information.

1 Q. Let's take a look. So you said this is a screen shot, is
2 that basically just a picture of what you get when you pull up
3 the Properties box for this document?

4 A. That is correct, but you also have to push the subtab,
5 which on this one is the Summary subtab.

6 Q. Does it show the title of the document that we're looking
7 at?

8 A. It does.

9 Q. And what is that title?

10 A. *The Ruling Regarding Suicide to Protect Information.*

11 Q. And that's the same title we saw on the document in
12 Government's Exhibit 60, correct?

13 A. It's a little different. The word here says "Suicide," in
14 Exhibit 60 it says "Killing One's Self."

15 Q. Okay. Does the Properties box in 60-A, does it indicate
16 who the author is?

17 A. Yes, it does.

18 Q. Who is that author?

19 A. Sonali Sadequee.

20 Q. Does it indicate a company associated with the computer
21 used to generate this document?

22 A. Yes, it does.

23 Q. What company is that?

24 A. Raksha.

25 Q. Let's take a look at Government's Exhibit 60-B. What is

1 Government's Exhibit 60-B?

2 A. It's almost the same as 60-A with the document, 60, opened
3 up in Microsoft Word. It's a computer screen shot again, but
4 instead of the Summary subtab of Properties, the Statistics
5 subtab's pushed.

6 Q. So it's the same principle, we were looking at the
7 Properties of the document but now we're looking at the
8 Statistics instead of the Summary; is that right?

9 A. That is correct.

10 Q. Does this show you when the document was created?

11 A. It does.

12 Q. And when was this document created?

13 A. Tuesday, September the 7th, 2004.

14 Q. Let's take a look at Government's Exhibit 54. We've got
15 another e-mail here. Would you run through the To, From, Date
16 and Subject for this e-mail?

17 A. From ibn_umar99@hotmail.com, to almuwahhid@hotmail.com,
18 sent on Sunday, May 15th, 2005. The subject is "Book."

19 Q. And does it indicate whether there's an attachment to this
20 document?

21 A. It does.

22 Q. Let's go ahead and read the paragraph there beginning with
23 "Akhee."

24 A. "Akhee, I didn't delete the first page, instead I just
25 added the cover before that. If you want you can delete the

1 second page, it used to be the first, as it contains all the
2 info already present on the cover."

3 Q. Let's go ahead and take a look at the attachment that was
4 attached to that e-mail, which is Government's Exhibit 54-A.
5 What's the title of that attachment?

6 A. *The Ruling Regarding Killing One's Self to Protect*
7 *Information.*

8 Q. And is that the same title that we saw back on
9 Government's Exhibit 60?

10 A. It is.

11 Q. Anything different about the way the document looks now as
12 opposed to the way we saw it in Government's Exhibit 60?

13 A. There's extra information added into the document. Plus,
14 it also has a cover page with a picture on the cover page.

15 Q. Let's look at Government's Exhibit 55, another e-mail.
16 Who is the sender and receiver, date and subject information
17 for this e-mail?

18 A. From damrd7@hotmail.com to almuwahhid@hotmail.com, sent on
19 Tuesday, May 17th, 2005, and the subject: "Unfinished copy."

20 Q. Does it indicate whether there's attachments to this
21 e-mail?

22 A. Yes, it does.

23 Q. So this an e-mail to Defendant Sadequee. What is the
24 sender say beginning with "Attached."

25 A. "Attached here is the unfinished copy of the piece.

1 Unfortunately, bro, I am nowadays constrained by time and work
2 and can no longer do this. However, I thank you bros for
3 giving me the chance, but I don't think I have the time
4 anymore. I finished only half of it in English and do hope
5 that you brothers could finish it."

6 Q. Let's go ahead and take a look at the attachment that the
7 sender is talking about, which is Government's Exhibit 55-A.
8 55-A, is that a document, the first part of which is in English
9 and the second part of which is in a language other than
10 English?

11 A. That is correct.

12 Q. Let's see if we can get a little idea what this document
13 is about. If we skip down on the first page to the paragraph
14 that begins: "O Two Parents," if you could go ahead and read
15 that paragraph.

16 A. "O Two Parents, indeed Islam today is suffering from the
17 onslaught of the Christians and the Jews all over the world and
18 this attack is reality, is aimed at Islam and its adherence by
19 killing and displacing them from their homes, and violating
20 their honor. And it is not possible for this ummah to rise
21 from this humiliation and disgrace except by the hands of its
22 youth and men when they raise the flag of Jihad and sacrifice
23 themselves and all that they own to assist this deen. In the
24 even [sic] that this happens, surely we will dominate the world
25 and everything in it just as it was conquered by the earlier

1 people. Because of that, the fathers and the mothers have to
2 realize their responsibility. Hence it is obligatory upon them
3 to make Jihad with their sons and their wealth and their voices
4 to gain victory for Islam and raise their honor of their
5 ummah -- of the ummah."

6 Q. Look at the next page, the second full paragraph, begins
7 "First of them." What's the author setting out in this
8 paragraph?

9 A. I'm sorry, can you repeat the question?

10 Q. Sure. What's the author setting out in this paragraph,
11 the one that begins, "First of them"?

12 A. Basically this is talking about a Muslim has two
13 obligations. The first obligation is to their parents. They
14 also have an obligation to God. And it's saying that the
15 Muslims should first ask permission of their parents to go and
16 do jihad and the parents should say yes. And if they don't,
17 that the Muslim has a greater obligation to God and therefore a
18 parent should not put their kids in a position to have to
19 choose between them and God.

20 Q. Let's read the two scenarios that they set out there at
21 the beginning, if you can read the first three sentences of the
22 paragraph beginning, "First of them."

23 A. "First of them: That you open your breasts to accept the
24 Jihad of your sons and motivate them and incite them upon it
25 and for both of you is the reward equal to their reward.

1 Secondly: You deter them from Jihad fi sabilillah and for you
2 is the sin and obedience is not owed to you. And the best for
3 you is that you follow the first alternative from the above
4 situations and motivate your sons for Jihad with delight and
5 obedience to Allah."

6 Q. Thank you. Agent Williamson, let's take a look at
7 Government's Exhibit 56, another e-mail. Who is the sender and
8 recipient for this e-mail?

9 A. From halsayfedine@hotmail.com to almuwahhid@hotmail.com,
10 sent on Saturday, May 21st, 2005.

11 Q. I see there's no subject line. Does it indicate whether
12 there's attachments to this e-mail sent to Defendant Sadequee?

13 A. Yes, it does.

14 Q. Let's take a look at Government's Exhibit 56-A, which is
15 the attachment. What's the title of the text attached to
16 Government's Exhibit 56-A?

17 A. The title is *Verdict Regarding the Permissibility of the*
18 *Martyrdom Operations*.

19 Q. Who is the author of this text?

20 A. By Al-Imam, Al-Hafith, Ash-Shaykh, Abu Abdillah Sulayman
21 Ibn Nasir Ibn Abdillah Al-Ulwan.

22 Q. Does it indicate the publisher for this document?

23 A. Yes, At-Tibyan Publications.

24 Q. Let's get a feel for this document. In we could, let's
25 look at the first page down towards the bottom, the paragraph

1 that begins, "The pestering," if you could read those lines
2 through the fourth or fifth line on the next page?

3 A. "The pestering Jews are the gatherers of all the shameful
4 defects and the collectors of the aggravations and the evils
5 and they are the harshest enemies of Allah against Al-Islam and
6 its people. He, the most High said: Verily, you will find the
7 strongest among men and enmity to the believers and the Jews
8 and those who Al-Mushrikun. And Allah has made compulsory the
9 fighting against them and making Jihad against them so that the
10 word of Allah is the highest and the word of those who
11 disbelieve is the lowest."

12 Q. Skip down to a little more than halfway down that page,
13 the sentence that begins, "And I see." You can go ahead and
14 read that sentence.

15 A. "And I see that in this time, in which the Muslims are
16 unable to fully fight the Jews and destroy them and expel them
17 from the Holy Land, that the best treatment and the greatest
18 medicine that we apply to the brothers of the monkeys and the
19 pigs, i.e., the Jews, is that we perform the suicide operations
20 and put forward our souls as a ransom for motivation of Iman
21 and for praiseworthy goals from planting the fear in the hearts
22 those who disbelieve and inflicting harm upon their bodies and
23 losses in their wealth."

24 Q. Thank you. Look at Government's Exhibit 57. The stack is
25 getting smaller. If you could, we've got another e-mail here,

1 who is the sender and recipient for this e-mail?

2 A. From ibnul_khattab82@yahoo.com to almuwahhid@hotmail.com,
3 sent Thursday, June 2nd, 2005, and the subject is "Amal."

4 Q. This e-mail sent to Defendant Sadequee, is there an
5 indication of whether it has attachments?

6 A. Yes, it does.

7 Q. Let's go ahead and take a look at the attachment, which is
8 Government's Exhibit 57-A. What's the title of this text?

9 A. *The First of the Series of Treatises, Breezes, From the*
10 *Gardens of Firdaws, The Tawhid of Action.*

11 Q. Does it indicate who the author of this text or speech is?

12 A. Yes, it does.

13 Q. Who is that?

14 A. Imam Abdullah Azzam.

15 Q. Let's take a look at Government's Exhibit 58. Who do we
16 have here as the sender and recipient?

17 A. From wamughal@hotmail.com to almuwahhid@hotmail.com, sent
18 Wednesday, July 20th, 2005, and the subject, "lyrics."

19 Q. Wamughal, is that e-mail address associated with the
20 Mughal we saw earlier?

21 A. Yes, it is.

22 Q. Does it indicate whether there's an attachment to this
23 e-mail sent to Defendant Sadequee?

24 A. Yes, it does.

25 Q. Let's go ahead and take a look at Government's Exhibit

1 58-A. Can you tell from looking at it what Government's
2 Exhibit 58-A is?

3 A. Yes. This seems to be a kind of a poem talking about how
4 the Taliban should take over the world.

5 Q. Would you read the first line of the poem?

6 A. "Prosper and remain for eternity, you are the Talibaan,
7 take over the whole world, you are the Talibaan."

8 Q. Skip down to the -- skip a couple verses and go down to
9 the verse that begins "Insha'Allah America."

10 A. "Insha'Allah America will be broken into pieces,
11 insha'Allah America will be annihilated, Iran is now laying
12 down a challenge, take over the whole world, you are the
13 Talibaan."

14 Q. Continue reading.

15 A. "O Allah, prolong the life of Usaamah, O Allah protect him
16 from all dangers, O Allah keep alive this young brave of
17 Arabia, Chechnya, Bosnia and the Valley of Kashmir; we will set
18 free these beautiful lands, we all make this announcement:
19 Take over the whole world. You are the Talibaan."

20 Q. One moment.

21 (Pause in the proceedings.)

22 MR. BLY: Thank you, sir. No further questions.

23 THE COURT: Mr. Sadequee?

24 CROSS-EXAMINATION

25 BY MR. SADEQUEE:

1 Q. Good afternoon.

2 A. Good afternoon.

3 Q. With regards to -- could we put up 60-A?

4 THE COURT: 60-A.

5 Q. (By Mr. Sadequee) Just to clarify, as to how or why --
6 you know Sonali Sadequee?

7 A. Yes.

8 Q. My sister?

9 A. Yes.

10 Q. Do you know how this information or these names got on to
11 the Properties of this file?

12 A. I believe when a Microsoft Word, the package itself, is
13 loaded on to a computer, you have to input certain information
14 on that software.

15 Q. So you're saying -- and this is what I'm worried about
16 happened, is that whenever a file is saved on any computer or
17 someone's laptop, whatever -- when it was installed that
18 information gets, that user information gets kept on to
19 whatever file is then saved with that program, right?

20 A. I'm not sure exactly. I don't know a lot about computers
21 and installing software.

22 Q. With regards to this, what I'm saying is that if I use
23 someone else's computer, then this is what this is about,
24 correct? It's not that someone -- it's not that someone else's
25 identity was falsely entered into that file; it's, rather,

1 someone else's computer was used and once that file is saved,
2 you type up a document and you save it, it registers that as
3 the author and company, correct?

4 A. I would say so. I don't know for definite, but yes.

5 Q. The government asked you to read certain excerpts from
6 these. If I can get to 49-A, page 7. If you could read from
7 the line where it says, where the government stopped, "Islam is
8 the language" and then "Islamic law and submission," if you
9 could read down from there.

10 A. Which page?

11 Q. Page number 7.

12 A. Aboo Khubayb Al-Muwahhid says: "Islam is the language and
13 Sharee'ah means submission."

14 Safiullah says: "Esactly [sic]."

15 Keep going?

16 Q. Yes.

17 A. Aboo Khubayb Al-Muwahhid says: "We are to submit to
18 Allah, the highest, and we have to make mankind submit to
19 Allah. You look around today in the world, you see all these
20 people worshipping all these different things. Some people
21 worship idols, stones, other worship Prophets, others worship
22 the Kings and the Presidents, others worship America, UK,
23 others worship the New World Order. Others worship music and
24 movies, others worship graves and pirs. The list goes on and
25 it is our duty to take mankind away from worshipping other

1 Slaves, to worship the Lord of the Slaves. Today these mental
2 retards are in charge of our affairs. They call to freedom,
3 liberation. By Allah, they call to Animalistic Freedom. They
4 have sex when they want, eat what they want, dress the way they
5 want, buy what they want, et cetera. They want to be a slave
6 of everyone and everything that exists other than Allah and
7 that is their Freedom, to be a slave of everything and
8 everyone. But we, the Monotheists who refuse to worship anyone
9 other than Allah" -- keep going?

10 Q. Yeah, if you could read just that last line.

11 A. "We refuse to be a slave of these Governments, these
12 desires, these pirs, these sins, these Shayaateen and we
13 declare our Freedom from them and we are only Slaves of Allah.
14 So that is our Freedom, compared to their Freedom."

15 Q. Thank you. If we can get Exhibit 59-A, page 4.

16 A. I'm sorry, which exhibit?

17 Q. 59-A, page 4.

18 A. I don't think we went over 59.

19 MR. BLY: I think 59 isn't in evidence, I don't think
20 we used 59.

21 THE COURT: But it is in evidence?

22 MR. BLY: 59 is not in evidence, neither is 59-A.

23 THE COURTROOM DEPUTY: I don't have it.

24 MR. BLY: If you want to show me the document I'll --

25 THE COURT: That's not in evidence. By our records

1 that has not been offered or admitted.

2 MR. BLY: If you want to show me the document, I'll
3 see. That's not in evidence.

4 MR. SADEQUEE: That's it, thank you.

5 THE COURT: Any redirect?

6 MR. BLY: No, Your Honor.

7 THE COURT: Does anybody want Agent Williamson
8 subject to recall?

9 MR. BLY: No.

10 THE COURT: Mr. Sadequee, do you want him subject to
11 recall?

12 MR. SADEQUEE: No.

13 THE COURT: All right, Agent Williamson, we're
14 releasing you. You should not discuss your testimony with
15 anybody until you hear that the case has been concluded, and we
16 thank you for being with us today.

17 THE WITNESS: Thank you.

18 THE COURT: Call your next witness, please.

19 MR. MCBURNEY: Aparna Bhattacharyya.

20 THE COURT: Ms. Bhattacharyya, if you will come
21 forward, stand in the witness box, I'll have you sworn in.

22 THE COURTROOM DEPUTY: Please raise your right hand.

23 APARNA BHATTACHARYYA,
24 being first duly sworn or affirmed, was examined and testified
25 as follows:

1 THE COURTROOM DEPUTY: Please be seated.

2 DIRECT EXAMINATION

3 BY MR. MCBURNEY:

4 Q. Good afternoon.

5 A. Good afternoon.

6 Q. Could you state your name and spell all of it for the
7 court reporter, please?

8 A. Yes. Aparna Bhattacharyya, A-p-a-r-n-a
9 B-h-a-t-t-a-c-h-a-r-y-y-a.

10 Q. Where do you work, ma'am?

11 A. I work for Raksha, R-a-k-s-h-a, Incorporated.

12 Q. Tell the jurors what Raksha is.

13 A. Raksha is a nonprofit organization based here in Georgia
14 that serves the South Asian community, which consists of
15 individuals from Bangladesh, Bhutan, India, Pakistan, Nepal and
16 Sri Lanka.

17 Much of the services that we provide are related to
18 addressing domestic violence here locally within the South
19 Asian community. So we offer counseling, support groups,
20 support around giving help around domestic violence or access
21 to services.

22 Q. What is your position at Raksha?

23 A. I'm the executive director.

24 Q. Do you have the ability to hire and, if necessary, fire
25 people?

1 A. Yes, I do.

2 Q. How long have you been executive director of Raksha?

3 A. Since 1998.

4 Q. What does "Raksha" mean, the word?

5 A. "Raksha" means "protection" in many South Asian languages.

6 Q. At one point did you hire Ehsanul Sadequee, the defendant
7 in this case, as an employee at Raksha?

8 A. Yes, I did.

9 Q. When was that?

10 A. August 2004.

11 Q. How long did Defendant Sadequee work at Raksha?

12 A. Approximately one year.

13 Q. August to August?

14 A. Approximately, yeah.

15 Q. '04 to '05?

16 A. Yeah.

17 Q. Were there any other members of Sadequee's family who are
18 associated or affiliated with Raksha?

19 A. Yes.

20 Q. Who?

21 A. His sister had a fellowship with the organization. His
22 brother, his older brother, had temporarily helped out while
23 Ehsanul was on vacation, and the mom had come in to volunteer a
24 little bit.

25 Q. The sister who worked at Raksha, what's her first name?

1 A. Sonali.

2 Q. Why did the defendant stop working at Raksha?

3 A. He was going home to marry his fiancée.

4 Q. "Home" means where?

5 A. Well, he was going to Bangladesh to marry his fiancée.

6 Q. What type of work did Defendant Sadequee perform during
7 the year he was at Raksha?

8 A. He helped me with mostly administrative tasks, such as
9 helping me prepare bills, helping me mail out information,
10 copying, faxing, a lot of things, just helping me out.

11 Q. He wasn't a counselor who would work with victims of
12 domestic violence?

13 A. No, he was not.

14 Q. During the year he worked there, were there any other male
15 employees, regular daily male employees?

16 A. No, there were not.

17 Q. Did you have any problems with the defendant when he
18 worked there in terms of not showing up or acting out in any
19 way?

20 A. No, not at all.

21 Q. He was a good employee?

22 A. Yes, he was.

23 Q. Were you sad to see him go?

24 A. Yes.

25 Q. Did the defendant have access to computers when he was at

1 Raksha?

2 A. Yes, he did.

3 Q. The computers at Raksha, are they connected to the
4 Internet?

5 A. Yes, they are.

6 Q. The connection that Raksha had back in August '04 through
7 August 2005, high speed or low speed?

8 A. High speed.

9 Q. Not dial-up?

10 A. No.

11 Q. Was there one computer in particular that the defendant
12 had access to to do work that you asked him to do?

13 A. Yes.

14 Q. Where was that located?

15 A. It was in the office that we shared together.

16 Q. That you and the defendant shared?

17 A. Yes.

18 Q. Was that the only computer in that office?

19 A. No. There were two computers in that office.

20 Q. One that you used primarily?

21 A. Yes.

22 Q. And one for the defendant to use?

23 A. The defendant used it, along with myself. It depended on
24 what I was working on.

25 Q. Not exclusively for him, but if he was on a computer --

1 A. That's usually the one he was on.

2 Q. Was there something unique about that computer that
3 distinguished it from a desktop that might be on your desk?

4 A. It was a donated server. So it was a server but didn't
5 act as a server, but it was a server-based system.

6 Q. It wasn't the server, meaning sort of the hub of the
7 network for Raksha, but it was a machine that at some point
8 could have done that?

9 A. Yes, but it was very old.

10 Q. Okay. Did the defendant have access to Raksha after
11 hours?

12 A. Not unless he was with his sister.

13 Q. On his own he couldn't get through whatever doors and
14 locks one would need to get through to get into your office
15 space?

16 A. No, he couldn't.

17 Q. So if he was using a computer at Raksha, the place had to
18 be open?

19 A. Yes.

20 Q. Did your duties typically keep you four square in your
21 office so that on a typical workday you didn't leave your work
22 space?

23 A. No, they don't.

24 Q. You moved around the office?

25 A. I move around the office. I do training, so sometimes I'm

1 not always in the office.

2 Q. You leave the office to, as you said, do training,
3 speaking engagements, et cetera?

4 A. Correct.

5 Q. Okay. Was the defendant allowed to stay in your office,
6 Raksha is large, but your space, work on the computer, do
7 whatever his tasks were when you weren't in there?

8 A. Yes, he was.

9 Q. I don't know how the computers and the desks were
10 distributed in your personal office that the defendant shared.
11 If you weren't looking over the defendant's shoulder at the
12 screen of the server computer he was using, would you be able
13 to tell what he's doing on the computer?

14 A. If I wasn't looking over him? I mean, I was kind of
15 sideways, so, I mean, if I turned around I could see what he
16 was working on.

17 Q. If you were focusing on the work at your desk and the
18 computer screen on your desk could you see directly to the
19 screen he was --

20 A. Not necessarily, no.

21 MR. MCBURNEY: Would you put up Exhibit 60, please?

22 Q. (By Mr. McBurney) You should be able -- it's not in front
23 of you but you can see it on the screen or the big screen, the
24 screen next to you. It's a document entitled *The Ruling*
25 *Regarding Killing One's Self to Protect Information*. It was

1 found on a computer associated with a gentleman named Waseem
2 Mughal in the United Kingdom, part of an investigation over
3 there into counterterrorism.

4 The jurors have already heard evidence that this
5 document was created using a copy of Microsoft Word licensed to
6 Raksha. Did you ever assign Defendant Sadequee a project to
7 edit, revise, or do anything to a document involving killing
8 one's self to protect information?

9 A. No, I did not.

10 Q. Is that type of document, the theme of that document
11 consistent in any way with the work that Raksha is involved
12 with?

13 A. Not at all.

14 Q. One second.

15 (Pause in the proceedings.)

16 MR. MCBURNEY: Thank you.

17 THE COURT: Mr. Sadequee?

18 CROSS-EXAMINATION

19 BY MR. SADEQUEE:

20 Q. Good afternoon.

21 A. Good afternoon.

22 Q. I just wanted to -- as you mentioned, I worked with you at
23 Raksha for a long time, for about one year. How would you
24 characterize me?

25 A. Kind, did your work, you cared about the work we did. One

1 of the reasons we hired you was because you were always there
2 volunteering and then going with your sister to do other
3 activities that were outside your administrative work.

4 Q. And how long has my sister worked with Raksha?

5 A. She worked over a year, probably a year and a half. But
6 she'd volunteered before that and then did some volunteer after
7 her fellowship was over -- no, she was there two, I think it
8 was a fellowship for two to three years. I think it was a
9 two-year fellowship.

10 Q. And besides working at Raksha, how long have you known my
11 sister?

12 A. Just through her community organizing work, her being
13 involved with anti-violence against women. She had done a
14 fundraiser for Raksha when she was at Georgia State, putting on
15 the *Vagina Monologues*, which raised money for the organization.

16 Q. At Raksha certain events, like Ek Shaam and others, I had
17 a lot of interaction with, all interaction was with non-Muslims
18 and with children, and how would you characterize that?

19 A. Your interaction?

20 Q. Yes, with others that --

21 A. Always kind, quiet, sweet, warm, loving. You were always
22 helpful, caring about the individuals you interacted with.

23 Q. Do you recall, before I left for Bangladesh, how long
24 prior to going -- prior to leaving for Bangladesh, how long did
25 I mention that I was going to go to Bangladesh to get married?

1 A. For a few months. I want to say at least two to three
2 months. I could be wrong, but you had given us a good amount
3 of notice.

4 Q. And do you remember what reason, like why I'm going to
5 Bangladesh for marriage and some of the background behind my
6 marriage?

7 A. You were in touch with Happy and you were really concerned
8 about wanting to go back home to marry her. You wanted to make
9 sure she wasn't married off to somebody else. You had had --
10 you've known her since childhood, so there was definitely a
11 deep relationship of you two knowing each other for a long
12 time.

13 Q. And when I mentioned -- when you found out that I was
14 actually getting prepared to get married, how did that -- how
15 did you receive that message, you and fellow coworkers at
16 Raksha?

17 A. How did I receive it?

18 Q. Yes.

19 A. I was probably concerned and protective and wanted to make
20 sure you were making the right decision because I thought you
21 were kind of young to be getting married, so I wanted to make
22 sure you had a plan for how you were going to support you and
23 your wife when you came back. But I wanted to be supportive of
24 your decision. But I wanted you to also be realistic on how
25 you could support yourself, given how young you were and how

1 much there would be and the adjustment it would be. But I was
2 sad to see you go. I was going to miss you.

3 Q. But I had notified people that I was coming back?

4 A. Did you notify them that you weren't coming back?

5 Q. No, that I was coming back.

6 A. Yes, you did. You planned on bringing your wife back with
7 you.

8 Q. But was it any date given of when I would return back?

9 A. I think it was dependent on when Happy could get the
10 immigration documentation to be able to come over with you. So
11 there wasn't a set time because you were relying on the
12 immigration system in Bangladesh, which was not predictable.

13 Q. That's it, thank you.

14 A. Thank you.

15 THE COURT: Any redirect?

16 MR. MCBURNEY: Yes, sir.

17 REDIRECT EXAMINATION

18 BY MR. MCBURNEY:

19 Q. Ma'am, in sharing with you the personal aspects of his
20 life, did Defendant Sadequee tell you about the work he did for
21 Tibyan Publications?

22 A. No, he did not.

23 Q. Did he ever mention the website Tibyan in talking to you
24 about what he was interested in?

25 A. No, he did not.

1 Q. The defendant took a break of about a week. I think he
2 even filled out a leave slip for his work there at Raksha in
3 March of 2005, went to Canada. Did he tell you about his trip
4 to Canada?

5 A. My understanding, he was visiting one of his relatives in
6 Canada, is what he had told me.

7 Q. His story to you was I'm going to visit --

8 A. His aunt.

9 Q. -- a relative, an aunt in Canada?

10 A. Yes.

11 Q. Did he tell you about meeting with his friend Azdee while
12 he was up in Canada?

13 A. No, he did not.

14 Q. Did you ever hear of Azdee?

15 A. No, I did not.

16 Q. Did you ever hear of his friend Syed Haris Ahmed here in
17 Atlanta?

18 A. I don't believe I had heard of him.

19 Q. Did you hear about anything involving his interest in
20 violent jihad?

21 A. Nothing.

22 Q. If he had any interest like that, is that something he
23 ever shared with you?

24 A. No, he did not.

25 Q. Thank you.

1 RE CROSS-EXAMINATION

2 BY MR. SADEQUEE:

3 Q. Before I went to Canada, do you recall me saying --

4 MR. MCBURNEY: Objection. His statements introduced
5 through the defendant are hearsay.6 THE COURT: You may ask her if she told you if she
7 remembers anything you said. You cannot offer your statement.8 Ladies and gentlemen, let me ask you to retire to the
9 jury room for a second.

10 (Jury retired from the courtroom at 4:24 p.m.)

11 THE COURT: All right, the jury has retired. What do
12 you want to ask?13 MR. SADEQUEE: I was going to ask, before going to
14 Canada I had mentioned that one of my friends was to get
15 married in Canada, and if she recalled that.

16 THE COURT: What's your objection to that?

17 MR. MCBURNEY: Well, partly the form of the question.
18 He's saying here's something I said. The defendant cannot
19 introduce his own statements unless he's completing some aspect
20 of his statement that I introduced.21 THE COURT: Well, I'm not sure about that. I mean,
22 if a lawyer was representing him, couldn't the lawyer say: Do
23 you recall being told, in connection with this trip to Canada,
24 that Mr. Ahmed said it and that Mr. Sadequee said X?

25 MR. MCBURNEY: The statements of a party opponent are

1 admissible. He is that party, he can't admit his own
2 statements through anyone other than himself.

3 THE COURT: Well, you just opened the door to what
4 was said in connection with his trip to Canada and limited it
5 to visiting with his aunt. I guess the question is whether or
6 not there was something else that was proffered by him in
7 connection with his trip to Canada.

8 MR. MCBURNEY: Agreed. And that would be the
9 completeness exception, so to ask the question the way the
10 Court has proposed it is appropriate, not as you've instructed
11 Mr. Sadequee before: Hey, remember when I said this thing, do
12 you remember that I said this thing, which is exactly how he
13 posed the question.

14 THE COURT: Okay, tell me again what you want to ask.

15 MR. SADEQUEE: That prior to going to Canada, one of
16 the reasons of going to Canada, along with visiting my aunt, I
17 had given, I had mentioned to my boss at the time, Aparna, was
18 one was going to visit my aunt, and also that a friend of mine
19 would be getting married in Canada, to visit, I was intending
20 on visiting, and if she recalled that. That's all.

21 THE COURT: Mr. McBurney, what's wrong with that?

22 MR. MCBURNEY: Omitting the quotation marks doesn't
23 change his effort. I think the appropriate question is: Do
24 you remember anything else -- assuming I opened the door -- do
25 you remember anything else I told you about that.

1 THE COURT: Of course, she's on cross-examination.

2 MR. MCBURNEY: We're dealing with his -- I understand
3 that, but he's feeding his statements in --

4 THE COURT: But I don't think this witness is going
5 to -- if she wasn't told that, she's not going to say, Well, if
6 you told me that, yeah, I guess you did. Do you understand the
7 question?

8 THE WITNESS: I understand the question.

9 THE COURT: Were you told that?

10 THE WITNESS: I don't remember so I'm not sure. I
11 remember him going to his aunt's. I remember him visiting his
12 aunt, that's what I recall. He may have but I don't recall
13 that. I remember him visiting his aunt and I remember -- he
14 may have had a connection, I don't remember a wedding.

15 THE COURT: So you may ask her if she -- I mean, you
16 now know what she's going to say. Do you want to ask her that
17 question?

18 MR. SADEQUEE: Well, I just did, I guess.

19 THE COURT: In front of the jury.

20 MR. SADEQUEE: Yes, I would still ask the question
21 because, I mean -- can I go more in depth into it?

22 THE COURT: If she doesn't remember -- see, now I
23 think what you're trying to do is to ask the question to get
24 your statement into evidence, and you can't do that. I mean, I
25 find that if you ask that question, she's going to say that she

1 doesn't remember that at all.

2 MR. SADEQUEE: Okay. I would still ask the question
3 the way I phrased it earlier and then just leave it.

4 THE COURT: I'm not going to allow that. You know
5 the answer. This witness, outside the presence of the jury,
6 has, under oath, told me that she does not recall you asking
7 that. For you to ask that question, knowing that that's her
8 answer under oath would be your attempt to try to testify to
9 the jury when you're not under oath, and I will not allow that.
10 That would be the only reason for you to ask that question.

11 MR. SADEQUEE: But this is something that also I
12 would like to --

13 THE COURT: Under what rule of evidence are you
14 seeking to introduce the question, introduce this testimony?

15 MR. SADEQUEE: Okay, I'll leave it, I won't ask the
16 question.

17 THE COURT: You will not ask the question?

18 MR. SADEQUEE: No.

19 THE COURT: Okay, so you elect not to ask the
20 question?

21 MR. SADEQUEE: Can I ask does she remember anything
22 else of -- prior to me going to Canada? Does she remember any
23 other reason that I had given her prior to going to Canada for
24 why I'm going to Canada.

25 THE COURT: So all you want to ask is -- in addition

1 to what you said about his aunt -- you want to ask do you
2 remember any other reason that you went to Canada?

3 MR. SADEQUEE: Yes.

4 THE COURT: And that is the specific question you are
5 going to ask?

6 MR. SADEQUEE: Yes.

7 THE COURT: Mr. McBurney, do you have any problem
8 with that?

9 MR. MCBURNEY: No, sir.

10 THE COURT: Mr. Sadequee, that is the question that
11 you will ask and no other. Do you understand that?

12 MR. SADEQUEE: Yes.

13 THE COURT: Bring the jurors back in, please.

14 Of course, that instruction is subject to her answer,
15 if there's follow-up, I might allow that.

16 (Jury returned to the courtroom at 4:30 p.m.)

17 THE COURT: Ladies and gentlemen, thank you for being
18 patient with me.

19 You may go ahead and ask your question.

20 Q. (By Mr. Sadequee) Yes. My question is do you recall any
21 other reason I mentioned to you in relation to me going to
22 Canada other than visiting my aunt?

23 A. I recall you visiting your aunt. I don't -- I knew that
24 you had gone to school there, so I thought maybe you were
25 connecting with your aunt and other people that you may know

1 but that's all I recall.

2 Q. Thank you.

3 THE COURT: Mr. McBurney?

4 MR. MCBURNEY: No, sir, nothing.

5 THE COURT: All right. Does anybody want
6 Ms. Bhattacharyya subject to recall?

7 MR. MCBURNEY: No, thank you.

8 THE COURT: Mr. Sadequee?

9 MR. SADEQUEE: No.

10 THE COURT: We appreciate your testimony. You should
11 not discuss your testimony with anybody until you hear that the
12 case is concluded, and we thank you for being with us.

13 THE WITNESS: Thank you.

14 THE COURT: Call your next witness, please.

15 MR. MCBURNEY: Mark Richards.

16 THE COURT: Please come forward and stand in the
17 witness box, I will have you sworn in.

18 MARK RICHARDS,
19 being first duly sworn or affirmed, was examined and testified
20 as follows:

21 THE COURTROOM DEPUTY: Please be seated.

22 DIRECT EXAMINATION

23 BY MR. MCBURNEY:

24 Q. Good afternoon, sir.

25 A. Good afternoon.

- 1 Q. Will you spell your name for the record?
- 2 A. Mark Richards, M-a-r-k R-i-c-h-a-r-d-s.
- 3 Q. Where do you work?
- 4 A. Federal Bureau of Investigation.
- 5 Q. How long have you been with the FBI?
- 6 A. I've been there for 12 years.
- 7 Q. What office or field office do you work in right now?
- 8 A. In the Atlanta Division.
- 9 Q. What unit are you assigned to in Atlanta?
- 10 A. Assigned to an international terrorism squad.
- 11 Q. Is that part of what's known as the JTTF, the Joint
- 12 Terrorism Task Force?
- 13 A. Yes, it is.
- 14 Q. How long have you been with the JTTF?
- 15 A. Approximately seven years.
- 16 Q. Were you involved in the FBI's investigation into the
- 17 defendant and Syed Haris Ahmed?
- 18 A. Yes, I was.
- 19 Q. Do you recognize Defendant Sadequee? Do you see him in
- 20 court today?
- 21 A. Yes. He's sitting at the first table next to Mr. Samuel.
- 22 Q. There are several beards at that table. The larger beard
- 23 belongs to which person?
- 24 A. The larger beard is Defendant Sadequee.
- 25 Q. Okay, thank you. During the course of the

1 investigation -- why don't we start with how the investigation
2 began for the FBI. What month and year did the investigation
3 into Ahmed and Defendant Sadequee begin?

4 A. August of 2005.

5 Q. When did Defendant Sadequee, if you know, leave for
6 Bangladesh?

7 A. I believe he left in August of 2005.

8 Q. It's about the same time the investigation began. Did the
9 FBI have an opportunity to interview Defendant Sadequee before
10 he left the United States for Bangladesh?

11 A. Yes.

12 Q. Were you involved in that interview?

13 A. I was not involved.

14 Q. Where did that interview occur?

15 A. In New York.

16 Q. Syed Haris Ahmed, where was he when the FBI's
17 investigation began?

18 A. He was in Pakistan.

19 Q. When did he return to the United States?

20 A. He also returned the same month, August of 2005.

21 Q. I may have misspoken in the opening. The year that
22 Defendant Sadequee and Syed Haris Ahmed made their trips to
23 Pakistan and Bangladesh was what year?

24 A. 2005.

25 Q. No question about that?

1 A. No question.

2 Q. Good. When Syed Haris Ahmed returned to the United
3 States, he came back to Atlanta?

4 A. Yes, he did.

5 Q. Was he interviewed by law enforcement the day of his
6 return?

7 A. Yes, he was.

8 Q. Did you participate in that interview?

9 A. I did not.

10 Q. By the time he came back was the investigation starting to
11 move along?

12 A. Yes. We were approximately three weeks into the
13 investigation.

14 Q. At some point during the investigation did you learn that
15 the defendant traveled to Canada?

16 A. Yes.

17 Q. When did he travel to Canada, month and year?

18 A. He traveled to Canada during March of 2005.

19 Q. Before the investigation began?

20 A. That is correct.

21 Q. Was the FBI aware that Defendant Sadequee went to Canada
22 when he actually made the trip? If that question makes sense.

23 A. Ask it again, please.

24 Q. When Defendant Sadequee took his trip, was the FBI aware
25 of that fact when it happened, or did it only learn about it

1 after the investigation began?

2 A. We learned about it after the investigation began.

3 Q. Okay. Let's talk about some of the specifics of the trip.

4 You should have in front of you Government's Exhibit 71. Do
5 you recognize that?

6 A. Yes, I do.

7 Q. Without going into the content or identifying recipients
8 or senders, what is it?

9 A. It's an e-mail from Greyhound to thandymazaq@hotmail.com.

10 Q. Okay. This is one of the many e-mails and chats,
11 et cetera, from all these hard drives we've talked about?

12 A. Correct.

13 Q. And the essence of the e-mail, is it an itinerary?

14 A. Yes. It's a --

15 Q. You don't need to get -- is it an itinerary?

16 A. Yes.

17 Q. Are you familiar with this document?

18 A. Yes.

19 MR. MCBURNEY: Government tenders Exhibit 71.

20 THE COURT: Any objection?

21 MR. SADEQUEE: No.

22 THE COURT: It's admitted.

23 MR. MCBURNEY: If we can put 71 up.

24 Q. (By Mr. McBurney) Okay, it is from?

25 A. From Greyhound.

1 Q. Eticket@greyhound, so an e-mail service, and it's to?

2 A. To the e-mail address thandymazaq@hotmail.com.

3 Q. If we turn to Government's Exhibit 1, the moniker chart,
4 Thandy Mazaq, is that a moniker already assigned to Syed Haris
5 Ahmed? If you can see that.

6 A. Yes, it is.

7 Q. So e-mail to Syed Haris Ahmed, thanks him for an order
8 with Greyhound. Who are the two passengers who will be going
9 somewhere on Greyhound?

10 A. The first is Mr. Ehsanul Sadequee and the second is Syed
11 Ahmed.

12 Q. And there's a fare and a fare class, adult or a child?

13 A. This is an adult fare.

14 Q. There's a billing address for whatever credit card paid
15 for these tickets. What is the street for the billing address?

16 A. The street is Nowata Drive.

17 Q. And that address is associated with whom?

18 A. It's the family residence of the Sadequee family.

19 Q. If we scroll down on the page, I think we get, I guess it
20 would be page 2, magnify the itinerary portion. Page 2 of
21 Government's Exhibit 71, what day were Defendant Sadequee and
22 Syed Haris Ahmed departing?

23 A. They were departing from Atlanta on March 6th, 2005.

24 Q. And their ultimate destination, the bottom line of the top
25 part of the itinerary?

1 A. Toronto, Canada.

2 Q. And what day did they arrive there?

3 A. They arrived on the next day, which would be on March 7,
4 2005.

5 Q. And then they left Toronto to return to Atlanta on what
6 day?

7 A. On March 12, 2005.

8 Q. It's a long bus trip. What day did they get back to
9 Atlanta?

10 A. They got back the next day in the morning, March 13, 2005,
11 at 6:45 a.m.

12 Q. Did the FBI obtain during the course of its investigation
13 any border crossing documents, I guess it would be border entry
14 documents, confirming that the defendant and Syed Haris Ahmed
15 entered the United States in Buffalo, New York, on March 12th,
16 2005?

17 A. Yes, we did.

18 Q. Both of them entered?

19 A. Both of them entered within a minute or two of each other.

20 Q. Did the FBI at some point obtain bank records for
21 Defendant Ahmed?

22 A. Yes.

23 Q. Did those records reflect the purchase that we just saw,
24 two tickets for \$138 apiece?

25 A. Yes.

1 Q. Take a look at Government's Exhibit 75. Do you recognize
2 that?

3 A. Yes, I do.

4 Q. What is -- it's a three-page document -- what is
5 Government's Exhibit 75?

6 A. It's a series of e-mails between Zubair Ahmed using e-mail
7 address ibnahmed460@hotmail.com, and the other participant is
8 Syed Ahmed using e-mail address thandymazaq@hotmail.com.

9 Q. The same e-mail address that the Greyhound itinerary was
10 sent to?

11 A. Correct.

12 Q. And before I forget -- and we don't need to put it up --
13 if you go back to Government 71, what was the date of the
14 e-mail from Greyhound?

15 A. It was February 26, 2005.

16 Q. In this e-mail chain, at some point does Syed Haris Ahmed
17 refer to a trip he's just taken that corresponds on the
18 calendar with the Canadian trip?

19 A. Yes, he does.

20 MR. MCBURNEY: Government tenders Exhibit 75.

21 THE COURT: Any objection?

22 MR. SADEQUEE: No.

23 THE COURT: It's admitted.

24 MR. MCBURNEY: If we could start on page 2, please,
25 at the bottom.

1 Q. (By Mr. McBurney) It's a series -- before you magnify
2 anything -- it's a series of e-mails back and forth. The
3 oldest e-mail is at the beginning or at the end of this chain?

4 A. The oldest is at the end.

5 Q. The first one that started it?

6 A. Correct.

7 Q. And the newest e-mail is at the --

8 A. At the beginning.

9 MR. MCBURNEY: Okay, if we could magnify this bottom
10 part.

11 Q. (By Mr. McBurney) An e-mail from Thandy Mazaq, Syed Haris
12 Ahmed, to this individual, Zubair Ahmed you mentioned. What's
13 the date of the e-mail?

14 A. The date is the same day they returned from Canada, it is
15 March 13th, 2005.

16 Q. Okay, what does Syed Haris Ahmed say in the sentence that
17 starts with "Man"?

18 A. "Man things have changed, God willing now, went to
19 someplace, don't want to mention online, hooked up with people,
20 just come any time, I'm free, college is no problem. I'm broke
21 too, ever think about charity. We will talk when you come."

22 Q. Where is it that Syed Haris Ahmed and the defendant had
23 just gone?

24 A. Canada, Toronto.

25 Q. Now, the Defendant Syed Haris Ahmed, in his next e-mail in

1 this chain, if we go back to page 2, Zubair responds and then
2 Syed Haris Ahmed writes back to Zubair, still March 13th, the
3 day they got back, what does he ask? What does he say?

4 A. He says: "Hey, man, you mentioned a long time ago that we
5 can take loans and then run away from these banks. Update me
6 on that."

7 Q. If we can go to page 1, please. Zubair responded to the
8 question about taking loans and running away and then Syed
9 Haris Ahmed replies. We're now March 15th, couple days later,
10 what does he say?

11 A. "Because I've heard that brothers in UK do this scheme and
12 they have scholars who have called it legitimate."

13 Q. Stop for a second. When you say "do this scheme," what's
14 the scheme that Syed Haris Ahmed originally brought up?

15 A. To somehow obtain money, take out loans and default them.

16 Q. Okay, keep going, so the scholars call legitimate.

17 A. "Especially if it helps us make migration. I'm working on
18 my family but if they remain hesitant I will still make
19 migration. You gotta come to hear our plans."

20 Q. "His plans" or "our plans"?

21 A. "Our plans."

22 Q. If you would look at Government's Exhibit 76. What is
23 Government's Exhibit 76?

24 A. It's an e-mail.

25 Q. Is it an e-mail with an attachment?

1 A. Yes, it has an attachment. The attachment is an instant
2 message, pretty long.

3 Q. Is this an e-mail that the FBI acquired during the course
4 of its investigation?

5 A. Yes, it is.

6 MR. MCBURNEY: Government tenders Exhibit 76.

7 THE COURT: Any objection?

8 MR. SADEQUEE: No.

9 THE COURT: It's admitted.

10 MR. MCBURNEY: If we could put up the first page,
11 please.

12 Q. (By Mr. McBurney) It's an e-mail from whom to whom?

13 A. From Ibn as-Sadequee using the e-mail address
14 almuwahhid@hotmail.com, and it is to al-muwahhid@hotmail.com.

15 Q. So the sender is who?

16 A. The sender is Defendant Sadequee.

17 Q. And we've heard a little bit about, you were not in court,
18 but we've heard a little bit, the jurors have, about who
19 Al-Muwahhid is. Who's that?

20 A. That is Syed Haris Ahmed.

21 Q. So defendant sends an e-mail to Syed Haris Ahmed. There's
22 no content to the e-mail, meaning text. What's the subject
23 line?

24 A. Subject reads: "Emergency Read This All Urgently."

25 Q. And the date?

1 A. The date is Thursday, March 31, 2005.

2 Q. Is this before or after the defendant and Syed Haris Ahmed
3 went to Canada?

4 A. This is after the Canada trip.

5 Q. You mentioned there's an attachment. Let's look at page 1
6 of the attachment, page 2 of Exhibit 76.

7 MR. MCBURNEY: If you could magnify like the top
8 third. That's great.

9 Q. (By Mr. McBurney) How many participants are in this saved
10 chat?

11 A. There are three.

12 Q. The first one is equal sign dash dash dash capital J,
13 three more dashes and an equal sign. Somewhere in this chat is
14 that person called by his name?

15 A. He's called by his name, yes.

16 Q. And what's that name?

17 A. He's called by his name Azdee.

18 Q. Azdee. So J equals Azdee in this chat?

19 A. Correct.

20 Q. Deenin@gawab.com, is he called by a name somewhere in the
21 chat?

22 A. Yes, he is.

23 Q. What's that name?

24 A. James.

25 Q. And then the third participant in the chat?

1 A. The third participant is Aboo Khubayb Al-Muwahhid.

2 Q. And that is?

3 A. That is Defendant Sadequee.

4 Q. Azdee is based where?

5 A. Azdee is in Canada.

6 Q. Let's look at page 3 of the exhibit. I'm going to go by
7 exhibit page numbers.

8 MR. MCBURNEY: If you could magnify, please, starting
9 with, "And when you come."

10 Q. (By Mr. McBurney) So James or Deenin says what, starting
11 with the "And when you come"?

12 A. "And when you come, you will stay on your own, it's not
13 good to stay alone."

14 Q. J says, Azdee?

15 A. Sure. "Since you are alone can't you stay at your
16 aunt's?"

17 Q. What does the defendant say?

18 A. "Thing is, I don't want my aunt to get suspicious."

19 Q. Prior to James and Azdee referring to the defendant's
20 aunt, was there any discussion in here where the defendant
21 said, Hey, guys, you know I have an aunt wherever you might be,
22 or did they bring up aunt?

23 A. I don't recall if it was mentioned earlier --

24 Q. Okay.

25 A. -- in this chat.

1 Q. That's all I'm talking about, is the universe of this
2 chat, but you don't recall, that's all right.

3 Let's go to page 5, just the first half of the page.
4 The blue text is always which participant?

5 A. The blue text is Defendant Sadequee.

6 Q. Yellow is?

7 A. Yellow is Azdee.

8 Q. And red?

9 A. Red is James.

10 Q. Starting at the top of the page, what is the defendant
11 saying?

12 A. "Thing is Abu Umar said he is booking an apartment or
13 something."

14 Q. And Azdee?

15 A. "Ah, then that's set."

16 Q. What does James say?

17 A. "He is depending on us but thing is, he himself is not
18 sure about when he's coming."

19 Q. Abu Umar, who's Abu Umar?

20 A. Abu Umar, well, is an -- well, his true name is Ibn
21 Hussein Khan.

22 Q. Where is he based? What's home for him?

23 A. He is, I believe, located in the United Kingdom right now.

24 Q. When you say "right now," at the time of this chat?

25 A. Even at the time of this chat.

1 Q. Okay. Go to page 6.

2 MR. MCBURNEY: And if you could magnify sort of the
3 center portion. That's great.

4 Q. (By Mr. McBurney) The defendant identifies someone else
5 who might be coming to wherever this basement or apartment is
6 going to be. What does he say?

7 A. He says, "Aboo Sul might be coming."

8 Q. And Azdee responds?

9 A. "It sounds like he is coming, he asked me."

10 Q. Continue with Azdee.

11 A. "He asked me what we plan on doing. I'm like
12 paintballing. He is like cool, I want to do that. So sounds
13 like he is coming, so basement..."

14 Q. Keep going, he has one more line, it's not on the screen.
15 What's the last thing Azdee says?

16 A. "So basement is the best option."

17 Q. And what does defendant say in response to, "So basement
18 is the best option"?

19 A. "How much do you think it is?"

20 Q. Go to page 7, just the top third of the page, what does
21 Azdee say it will cost?

22 A. "\$400, I think."

23 Q. Then James?

24 A. James says: "450 to 500 including everything."

25 Q. Then the defendant starts talking about time frames. What

1 does he say in response to the pricing?

2 A. "For my PP to come back, it takes six weeks."

3 Q. In the context of this chat and other communications we'll
4 go through, PP means what?

5 A. Passport.

6 Q. Let's go to page 8.

7 MR. MCBURNEY: If you could highlight from the
8 defendant's first line where he says, "Ikhwaan, brothers."

9 Q. (By Mr. McBurney) What does the defendant say on page 8?

10 A. "Also brothers, Turab is genius. He gave an idea which
11 blows away everything."

12 Q. Turab is who?

13 A. Turab is a moniker for Syed Haris Ahmed.

14 Q. At any point in this chat does Azdee or James say, Who's
15 Turab, who are you talking about?

16 A. No, I don't recall them saying that in this chat.

17 Q. In fact, what does Azdee say in response to Defendant
18 Sadequee saying Turab has this great idea which blows
19 everything away?

20 A. "Turab should be leader because that dude has mad ideas."

21 MR. MCBURNEY: Page 9, if you could magnify
22 everything from, "Also, we started to," to the bottom of the
23 page.

24 Q. (By Mr. McBurney) The defendant says what?

25 A. "Also, we started to talk to Falook and we told him we are

1 leaving."

2 Q. Falook is who?

3 A. Falook is Omer Kamal.

4 Q. And this chat was sent from Sadequee to Turab before or
5 after the Canada trip?

6 A. The March 31st, after the Canada trip.

7 Q. So defendant says: "We started to talk to Falook, we told
8 him we are leaving." What does James ask?

9 A. "He's trustworthy?"

10 Q. Azdee says?

11 A. "He has issues but he is all right."

12 Q. Then the defendant continues with this discussion about
13 Falook. What does he say?

14 A. "And so if he wants to join the caravan, then he should
15 join, if not, then let him sell his manhood to his sisters."

16 Q. Keep going.

17 A. "He is okay but he is weak and thinks he has an excuse for
18 not going."

19 Q. The bottom of the page, Azdee explains why Falook is
20 someone important to hang on to. What does he say?

21 A. "The thing is -- the thing he can get in very easily since
22 he is desi and sounds American."

23 Q. Let's jump to the bottom of page 11.

24 MR. MCBURNEY: And you can just magnify the bottom
25 part.

1 Q. (By Mr. McBurney) James comes back to Turab's idea that
2 blows everything away. What does James say, down at the bottom
3 of page 11?

4 A. "What was Turab's idea or MSN is not cool?"

5 Q. MSN is?

6 A. Speaking online, communicating online.

7 Q. What does Azdee say in response to James' concern about
8 talking about Turab's idea?

9 A. "Dude, don't talk about it."

10 Q. Top of the next page, the defendant weighs in. What does
11 he say?

12 A. "We will tell you but, brother, it was like flawless with
13 the permission of God for the birthday I mean."

14 Q. Let's go to page 15.

15 MR. MCBURNEY: And if you could enlarge the two
16 paragraphs at the top.

17 Q. (By Mr. McBurney) What does James say in his second entry
18 on this page?

19 A. "Just wanted to suggest, I think it's absolutely essential
20 for Turab to come based on the fact that we still haven't got
21 anything solid as to what we want to do and how to do it, and
22 we should all be here, as the foundation of this. God knows
23 best."

24 Q. What does the defendant say?

25 A. "Brothers, me and Turab will probably drive up to Virgin

1 Mary by ourselves, God willing, and scoop the place, and then
2 return back, and then later I will come when I get my
3 passport."

4 Q. This chat was forwarded to Syed Haris Ahmed on March 31.
5 A couple weeks later where did Defendant Sadequee and Syed
6 Haris Ahmed go?

7 A. They went to Washington, D.C.

8 Q. Which is between what two states?

9 A. Virginia and Maryland.

10 Q. And while they were there did they take the videos that
11 we've already heard about from some witnesses?

12 A. They took several videos.

13 Q. Let's continue on with page 15.

14 MR. MCBURNEY: If you could magnify from where J
15 starts talking down to the large blue paragraph.

16 Q. (By Mr. McBurney) So there's been discussion about Turaab
17 coming to join something. What does Azdee say about that?

18 A. Azdee says: "Yeah, I don't see the point of Turab not
19 coming, if they are going based on loot, then he doesn't need
20 to work extra."

21 Q. What does defendant say?

22 A. "Thing is, he said he wants to gather money, and he will
23 go by himself to Pakland, once we tell him when and where."

24 Q. Pakland?

25 A. Pakland is Pakistan.

1 Q. The defendant continues after he's interrupted by James.

2 A. "But the thing is, brothers, we shouldn't completely rely
3 on loot. What if something happens, some bros over there drop
4 out or they get martyrdom, et cetera. We should have a backup
5 plan. God knows best. What do you all think?"

6 Q. Page 16, the two paragraphs here by Defendant Sadequee,
7 what does he say?

8 A. "Also, brothers, another possibility I was thinking is we
9 take some money from here, a few thousand each one of us,
10 together about 15,000 or something, and we go to Pakland and
11 then we go loot some of those who reject."

12 Q. All right, second to last page, up to page 18, please.

13 MR. MCBURNEY: If you can magnify right in here.

14 Q. (By Mr. McBurney) What happens with James on this page?

15 A. James left the conversation.

16 Q. So who's left?

17 A. Azdee and Defendant Sadequee.

18 Q. What's the first thing defendant says after James leaves?

19 A. "I'll tell Turab, God willing."

20 Q. Go to the final page.

21 MR. MCBURNEY: And you can magnify the whole page.

22 Q. (By Mr. McBurney) Defendant repeats it, what does he say
23 in his first entry on page 19?

24 A. "Okay, I will send this conversation to Turaab, God
25 willing."

1 Q. And what is it that Defendant Sadequee attached to the
2 e-mail he sent to Turaab, Syed Haris Ahmed?

3 A. Could you repeat the question?

4 Q. Sure. The defendant just said, "I will send this
5 conversation to Turaab." My question is what is it that
6 Defendant Sadequee attached to this e-mail we have that he sent
7 to Turaab?

8 A. He sent this conversation attached to the e-mail.

9 Q. Azdee changes the subject. What does he say?

10 A. "I think I figured a plan to get into Pakland without
11 being suspected if Sinaan can work it out."

12 Q. And then he's cautioned by the defendant?

13 A. "Is it okay to say over MSN."

14 Q. Yes, and Azdee says: "How does one get into Pakistan?"

15 A. "Marriage is the only way I see as a way to get in there."

16 Q. And the defendant's response?

17 A. "Yeah."

18 Q. Let's shift to Washington. On what day did Defendant
19 Sadequee and Syed Haris Ahmed travel to Washington, D.C.?

20 A. I believe it was April 11th, 2005.

21 Q. Are you sure about which day it was or that's just your
22 best recollection?

23 A. I believe it may have been April 10th, 2005.

24 Q. Or on --

25 THE COURT: Are we going to a new subject?

1 MR. MCBURNEY: Yes, sir.

2 THE COURT: Because I promised the jury that I would
3 let them go home at 5:00 and it is that time.

4 MR. MCBURNEY: It's a very natural break point.

5 THE COURT: Would this be a good time to break?

6 MR. MCBURNEY: A perfect break.

7 THE COURT: I thought it might be.

8 Ladies and gentlemen, it's been a long day and I
9 appreciate very much your attentiveness. I think it's been an
10 efficient day, but I think you should go home and be with your
11 families. Of course, when you're with them don't discuss the
12 case with them because that would be improper to do so because
13 the evidence is still coming in.

14 We will begin tomorrow promptly at 9:00. Because I
15 know traffic is awful in the mornings, it's a little worse now
16 because school has started and those traffic patterns haven't
17 been established yet, so there's generally more traffic coming
18 downtown, which is one of the reasons why I make sure that
19 there are things for you, like breakfast for you to eat in the
20 jury room when you get here. I think that's in the jury room
21 usually by 7:30, no later than 8:00. I appreciate very much
22 your note thanking me for that today. It is a service that we
23 provide to you because of your service to us.

24 So with that, have a good evening, we'll see you
25 tomorrow morning at 9:00.

1 (Jury retired from the courtroom at 5:03 p.m.)

2 THE COURT: You can step down, Agent. Of course,
3 don't discuss your testimony between now and tomorrow because
4 you're in the middle of it. And you are excused for the
5 evening, be back tomorrow morning. We'll begin promptly at
6 9:00. And why don't you step out, let me see if there's
7 anything else I need to talk to the lawyers about.

8 Is there anything else we need to discuss now? I
9 would also like a summary of who will be called tomorrow and
10 with estimations on what witnesses and how long you think they
11 will take, knowing that you will not be held to that but it
12 helps me manage.

13 MR. MCBURNEY: We're nearly done with Agent Richards
14 this round, he'll be recalled later, but I'm guessing 15 more
15 minutes with Agent Richards. Following that we have Tim
16 Alexandre, he's from the State Department, talking a little bit
17 about the videos and where people went in Washington. It will
18 be much shorter than last time. What do you guess?

19 MS. COLLINS: About 15 minutes.

20 MR. MCBURNEY: 15 minutes for direct. And then I
21 believe we'll have someone from the United Kingdom, law
22 enforcement talking about -- how long do you think?

23 MS. COLLINS: 20 minutes, perhaps.

24 MR. MCBURNEY: Not too long. Then an agent will be
25 on the stand for several hours going through a number of chats

1 you've seen before. After that will be Syed Haris Ahmed and
2 that will be a long time. We have plenty of witnesses
3 following. Actually, we'll enter a patch of one, two, three,
4 four witnesses who will be ten minutes or less each. But I
5 suspect that with Agent Allen and -- Syed Haris Ahmed could
6 last four minutes, but assuming he's answering questions, I
7 think that will be a medium-long direct and probably a very
8 long cross-examination.

9 The question you may want to have answered is that we
10 will be, after Syed Haris Ahmed testifies, far more than
11 halfway through, maybe not body count, but in terms of -- there
12 are a couple of long witnesses after that, most of them will be
13 fairly brief.

14 THE COURT: I think body count is probably --

15 MR. MCBURNEY: That may not be the right way to put
16 it.

17 THE COURT: I would say that you would have put up
18 more witnesses than you have remaining, I think that's what you
19 meant.

20 MR. MCBURNEY: Something along those lines.

21 THE COURT: Okay. Mr. Sadequee, tomorrow when
22 Mr. Ahmed testifies you need to be particularly careful about
23 your questions and be guided by the advice that I've given you
24 about what is allowed and what isn't allowed. You have the
25 evening to prepare for that and you might want to talk to Mr.

1 Samuel and he might help you with some general formulation
2 rules so that that goes smoothly and so that you don't violate
3 the Rules of Evidence or the Rules of Procedure.

4 MR. MCBURNEY: One point on that, if I may. We are
5 going to talk about this this evening, but it may be that we
6 have a very narrow focus for Syed Haris Ahmed and it might help
7 if Defendant Sadequee understood the notion of scope of direct
8 and cross.

9 THE COURT: Mr. Samuel, can you cover that with him?
10 If there's a very narrow direct examination limited to narrow
11 and specific issues, cross, of course, would have to be related
12 to the direct examination.

13 MR. SAMUEL: I actually have talked to him about
14 that.

15 He just said to me -- you know we can't meet at
16 night. Mr. Ahmed testifying is to some extent as much -- not
17 to some extent, is as much of a surprise. If he gets here at
18 8:00 tomorrow morning that will be great, I can meet him on the
19 16th floor. If he doesn't get here until quarter of 9:00 we
20 may ask your indulgence so we can do what you want to do
21 because it will make things more efficient.

22 THE COURT: All right. Anything else?

23 MR. SAMUEL: I'll be here at 7:30. I assume there's
24 no chance he will be here before that; is that right?

25 I'm not asking you, Judge. The record should reflect

1 that I'm looking elsewhere.

2 THE MARSHAL: We'll put our best effort.

3 THE COURT: I just talked to the marshals and I'm
4 asking Marshal Mecum if he could please, knowing that he has
5 unlimited persuasive abilities, to let the prison know that I
6 am personally interested in them helping tomorrow morning in
7 assuring that Mr. Sadequee rolls in here before 8:00 so that
8 the meeting with Mr. Samuel and Mr. Sadequee can begin at 8:00.
9 And as I told the deputy, that if it would help for me to make
10 a phone call to the warden, I'm happy to do that, but you are
11 so much more effective. All right, anything else?

12 MR. MCBURNEY: No, sir.

13 THE COURT: All right. I thought today was an
14 efficient day, I appreciate your cooperation. We will see you
15 tomorrow morning at 9:00.

16 (Proceedings adjourned at 5:10 p.m.)

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C E R T I F I C A T E

UNITED STATES DISTRICT COURT:

NORTHERN DISTRICT OF GEORGIA:

I hereby certify that the foregoing pages, 1 through 294, are a true and correct copy of the proceedings in the case aforesaid.

This the 28th day of August, 2009.

Amanda Lohnaas

Amanda Lohnaas, CCR-B-580, RMR, CRR
Official Court Reporter
United States District Court